

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF MONTGOMERY, VIRGINIA HELD ON THE 18<sup>th</sup> DAY OF DECEMBER 2006, AT 6:00 P.M. IN THE BOARD CHAMBERS, MONTGOMERY COUNTY GOVERNMENT CENTER, 755 ROANOKE STREET, CHRISTIANSBURG, VIRGINIA:

PRESENT:	Steve L. Spradlin	-Chair
	Mary W. Biggs	-Vice Chair
	Gary D. Creed	-Supervisors
	Doug Marrs	
	John A. Muffo	
	Annette S. Perkins (Arrived 7:00 p.m.)	
	James D. Politis (left 9:50 p.m.)	
	B. Clayton Goodman, III	-County Administrator
	L. Carol Edmonds	-Assistant County Administrator
	Martin M. McMahon	-County Attorney
	T.C. Powers	-Planning Director
	Steve Sandy	-Zoning Administrator
	Vickie L. Swinney	-Secretary, Board of Supervisors

### **CALL TO ORDER**

The Chair called the meeting to order.

### **INTO CLOSED MEETING**

On a motion by Mary W. Biggs, seconded by Gary D. Creed and carried unanimously,

BE IT RESOLVED, The Board of Supervisors hereby enters into Closed Meeting for the purpose of discussing the following:

- |                  |     |   |
|------------------|-----|---|
| Section 2.2-3711 | (1) | Discussion, Consideration or Interviews of Prospective Candidates for Employment; Assignment, Appointment, Promotion, Performance, Demotion, Salaries, Disciplining or Resignation of Specific Officers, Appointees or Employees of Any Public Body         |
|                  |     | 1. Adjustments and Appeals Board  |
|                  |     | 2. Parks & Recreation Commission  |
|                  |     | 3. Transportation Safety Commission   |
|                  |     | 4. Personnel  |
|                  | (5) | Discussion Concerning A Prospective Business Or Industry Or The Expansion Of An Existing Business Or Industry Where No Previous Announcement Has Been Made Of The Business Or Industry's Interest In Locating Or Expanding Its Facilities In The Community. |
|                  |     | 1. Project # 2006-008   |

- (3) Discussion or Consideration of the Acquisition of Real Property for Public Purpose, or of the Disposition of Publicly Held Real Property, Where Discussion in an Open Meeting Would Adversely Affect the Bargaining Position or Negotiation Strategy of the Public Body
1. Prices Fork Elementary School Site
  2. Elliston/Lafayette Elementary School Site

The vote on the foregoing motion was as follows:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
John A. Muffo	None	Annette S. Perkins
James D. Politis		
Mary W. Biggs		
Doug Marrs		
Gary D. Creed		
Steve L. Spradlin		

**Supervisor Perkins arrived at 7:00 p.m.**

**OUT OF CLOSED MEETING**

On a motion by Mary W. Biggs, seconded by John A. Muffo and carried unanimously,

BE IT RESOLVED, The Board of Supervisors ends their Closed Meeting to return to Regular Session.

The vote on the foregoing motion was as follows:

<u>AYE</u>	<u>NAY</u>
James D. Politis	None
Annette S. Perkins	
Mary W. Biggs	
Doug Marrs	
Gary D. Creed	
John A. Muffo	
Steve L. Spradlin	

**CERTIFICATION OF CLOSED MEETING**

On a motion by Doug Marrs, seconded by Mary W. Biggs and carried unanimously,

WHEREAS, The Board of Supervisors of Montgomery County has convened a Closed Meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3711 of the Code of Virginia requires a certification by the Board that such Closed Meeting was conducted in conformity with Virginia law.

NOW, THEREFORE, BE IT RESOLVED, That the Board of Supervisors of Montgomery County, Virginia hereby certifies that to the best of each member's knowledge (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (ii) only such public business matters as were identified in the motion conveying the closed meeting were heard, discussed or considered by the Board.

## VOTE

### AYES

Annette S. Perkins  
Mary W. Biggs  
Doug Marrs  
Gary D. Creed  
John A. Muffo  
James D. Politis  
Steve L. Spradlin

### NAYS

None

### ABSENT DURING VOTE

None

### ABSENT DURING MEETING

None

Supervisor Perkins certified closed meeting for the time she was present.

## **PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was recited.

## **DELEGATION**

### **Route 460 Connector Corridor Study**

Dan Brugh, Executive Director of the Metropolitan Planning Organization (MPO), provided an update on the Route 460 Connector Corridor Study. The Route 460 Connector Corridor Study is a planning effort intended to identify the most feasible alignment for a new roadway extending west from the Route 460 Bypass at or near Southgate Drive to Prices Fork Road west of the community of Prices Fork. The purpose of pinpointing the most feasible alignment is to better inform the transportation and land use planning process in Montgomery County, the Town of Blacksburg, and Virginia Tech. These planning efforts will help ensure that the proposed roadway will better fit into the community. Mr. Brugh stated that this project will move forward toward construction only when funding is identified and when local jurisdictions move it up as a priority project. Once funding is made available, a more detailed design and environmental studies will be performed. Currently there is no funding available for this project and it is not a priority for the localities.

A public meeting was held on November 15, 2006, which provided a review of the study process and gained citizen input on the study, from transportation and safety concerns to potential impacts. The MPO received 195 responses from this meeting. Twenty-five of the responses indicated citizens were opposed to the connector route, and 175 responses favored some type of a connector. Another public meeting is scheduled for February 2007.

Supervisor Biggs commented that citizens in her district are strongly opposed to a connector road through the Heathwood area.

Supervisor Spradlin asked Mr. Brugh the timeline for the project. Mr. Brugh answered that this project is estimated to be constructed 20-30 years from now. As stated, no funding is available for this project.

## **PUBLIC HEARINGS**

### **1. Policy Map Amendment – Anne Yates**

**Anne Yates requests to amend the policy map of the Montgomery County Comprehensive Plan by changing the policy map designation of Tax Parcel No(s). 52-A-96B, 96 (Acct. ID #120216, 015266) located east of Stroubles Creek Road and south of Sandy Circle from Resource Stewardship to Village Expansion (Prices Fork Village).**

Joe Powers, Planning Director, provided a brief summary of the request. Ms. Yates' property adjoins the village expansion area in Prices Fork and changing the policy map designation will adhere to the village concept. Mr. Powers explained a request to change the designation of a particular Planning Policy Area shall be approved only if one or more of the following four criteria are met:

1. The subject property was misinterpreted or overlooked in the comprehensive plan.
2. Conditions have changed substantially since the last comprehensive plan update necessitating a change ( e.g. changes in surrounding land use or economic conditions.)
3. An undue hardship exists which substantially limits the use of the subject property.
4. The amendment will effectively aid in the implementation of other goals of the comprehensive plan.

At their November 15, 2006 meeting, the Planning Commission recommended approval of this request.

Randi Lemmon addressed the Board on behalf of the applicant, Anne Yates. Ms. Yates has requested her property be included in the Village Expansion Area. Water and sewer is available to the property.

There being no further speakers, the public hearing was closed.

### **2. Policy Map Amendment – Virginia L. Vaughan**

**Virginia L. Vaughan requests to amend the policy map of the Montgomery County Comprehensive Plan by changing the policy map designation of Tax Parcel No(s). 52-A-101A (Acct. ID #130388) located east of Stroubles Creek Road and south of Sandy Circle from Resource Stewardship to Village Expansion (Prices Fork Village)**

Joe Powers, Planning Director, provided a brief summary of the request. Ms. Vaughan's property adjoins the village expansion area in Prices Fork and changing the policy map designation will adhere to the village concept.

At their November 15, 2006 meeting, the Planning Commission recommended approval of this request.

There being no speakers, the public hearing was closed.

### **3. Policy Map Amendment – Ronald E. Salmons**

**Ronald E. Salmons requests to amend the policy map of the Montgomery County Comprehensive Plan by changing the policy map designation of a portion of Tax Parcel No. 119-A-35,36,37 (Acct. ID #016536) on the west side of Riner Rd (Route 8) at the Riner Rd. and Tuckahoe Dr. intersection from Village Expansion (Riner Village) to Rural.**

Joe Powers, Planning Director, provided a brief summary of the request. Mr. Salmons has requested that his property, located on the west side of Riner behind the Auburn Elementary School, be removed from Village Expansion to Rural.

At their November 15, 2006 meeting, the Planning Commission recommended approval of this request.

There being no speakers, the public hearing was closed.

4. Policy Map Amendment – L&G Circle T

**L&G Circle T requests to amend the policy map of the Montgomery County Comprehensive Plan by changing the policy map designation of a portion of Tax Parcel No. 119-A-22,23 (Acct. ID #019113) on the west side of Riner Rd (Route 8) approx. 1000 feet south of the Dairy Road & Riner Road intersection from Resource Stewardship to Village Expansion (Riner Village).**

Joe Powers, Planning Director, provided a brief summary of the request. The applicant desires to have this property within the Village Expansion Area.

At their November 15, 2006 meeting, the Planning Commission recommended approval of this request.

Margret Smith spoke in opposition to this request. Ms. Smith stated that this request is the result of a developer approaching the property owners about the sale of their land, not the result of the landowner seeking a buyer. Food Country USA has requested the expansion of the Riner Village Expansion Area as part of the commercial area in order to allow a 35,000 square foot grocery store. Ms. Smith stated that the Riner community had two large developments pressed on them and they do not want any more commercial development. There is an overwhelming community opposition to this request. Ms. Smith expressed concerns that the request does not meet any of the four criteria for amending the Comprehensive Plan at the request of a landowner, and it should at least meet one of the four criteria. Ms. Smith also expressed concern that her correspondence submitted to the Planning Commission, dated October 11, 2006 and November 15, 2006, stating her concerns and opposition to the request, were not provided to the Board of Supervisors in their Board Packet.

Charlie Bowles spoke in opposition to this request. He believes the Board of Supervisors should stick to the Comprehensive Plan and Riner Village Plan. Mr. Bowles is against spot zoning and stated that there is property in the Riner Village already zoned commercial that would be a suitable site for a grocery store. Mr. Bowles also expressed concern with traffic, lack of public water and sewer, and commercial development. He is not against growth, it just needs to slow down.

Kelly Breenan expressed concern with the request. Mr. Breenan stated the comprehensive plan was drafted with the help of Montgomery County residents to develop the future of the County. Numerous public community meetings were held in Riner and the community has no desire for a grocery store. Mr. Breenan stated that they were given two weeks' notice of the public hearing, which allowed no time for discussion. He urged the Board to adhere to the Comprehensive Plan.

Gene "Bull" Teel, applicant, addressed the Board regarding his request. Mr. Teel stated all the opposition is duly noted. He believes that the development of a Food Country USA would be a good fit into the Riner community, bringing economic interest and jobs to the community.

There being no further speakers, the public hearing was closed.

5. Special Use Permit – Ernie & Jacqueline Marshall ( Verizon Wireless)

**Ernie R. & Jacqueline P. Marshall (Agent: Verizon Wireless) requests a special use permit with possible conditions, on a 138.73 acre tract in Agriculture (A-1) to allow the a one-hundred ninety-nine (199) foot telecommunications tower and associated equipment facilities.** The property is located on the north side of Riner Road (Route 8) with the property entrance located approximately 300 feet west of the Harvest Road and Riner Road intersection and is identified as Tax Parcel Nos. 138-A-51 (Acct ID # 005526) in the Riner Magisterial District (District D). The property currently lies in an area designated as Resource Stewardship in the Comprehensive Plan.

The Zoning Administrator provided a brief summary and background on the above request. The applicant is requesting a special use permit in order to allow Verizon Wireless to construct a 199 ft telecommunications tower. In 2002, the applicant received approval for US Cellular to construct a 199 ft stealth monopole tower rather than the 249 ft. tower that was requested. The approved structure was never constructed and the SUP is now void since it was not constructed within two years of approval.

At their December 13, 2006 meeting, the Planning Commission recommended approval of the special use permit and recommended only a 159 ft tower instead of a 199 ft. tower. The Planning Commission were sensitive to the visual impact of the proposed tower to be located on the top of a prominent ridge near Riner.

Supervisor Politis asked if the 150 ft tower was acceptable to Verizon Wireless. There is a 40 ft difference.

Supervisor Creed asked for confirmation that the Board of Supervisors did approve a 199 ft tower on this property in the past. The Zoning Administrator confirmed that in 2002 the Board did approve a 199 ft tower for US Cellular.

Supervisor Marrs asked if the proposed site had been evaluated by emergency services to determine what height they need to get proper signal for their antenna. Also, what costs will be associated with providing tower space to emergency services. The Zoning Administrator replied that no one from the emergency services had visited the site. Also, Verizon Wireless has proffered a space for emergency services for \$1 per year, with emergency services providing the equipment and the owner/agent shall install the antenna at market rate.

Jacqueline Karp, Verizon Wireless, addressed the Board on their request. Ms. Karp explained that a 199 ft. tower will allow for an additional 4 co-locaters, including space for emergency services. The site would have an unmanned fenced site, with one visit per month. This facility is critical to Verizon Wireless' goal of providing state-of-the-art communications coverage and capacity to handle call volume in the Riner area. Verizon Wireless is requesting a 199 ft. tower in order to provide more carriers so there will be less of a need for future towers.

Supervisor Marrs and Supervisor Creed asked Ms. Karp to provide the Board with information regarding the location of the emergency services antenna on the tower and the exact cost to the County for installing the equipment.

Crystal Handy spoke in opposition to the proposed tower. Ms. Handy said she lives 100 feet from the proposed tower site. This tower will literally be in her backyard. She believes a tower barely above the tree lines is needed, not 160 – 199 ft tower. Ms. Handy also expressed her desire for a tree tower monopole, which can be done. The tower would be disguised as a tree and blend into the ridgeline. She believes there are other alternatives for Verizon Wireless to co-locate, on one of the many AEP towers.

Flo Shiflett spoke in support of the proposed cell tower as more coverage is needed in the Riner area.

Charlie Bowles spoke in support of the proposed cell tower. Mr. Bowles believes the emergency service is in dire need of better reception to help protect the citizens in the Riner/Pilot area. Currently, the fire and rescue radio equipment does not have adequate coverage and the volunteers rely on their cell phones.

Carol Handy spoke in opposition of the proposed cell tower. Ms. Handy stated the tower will be located on a prominent ridge line that will be seen miles away. She believes this site should be left rural with the natural settings. Ms. Handy wondered why this particular site was chosen and asked if Verizon Wireless could not locate the antennas on a existing AEP pole.

There being no further speakers, the public hearing was closed.

### **APPRECIATION – ZONING ORDINANCE**

Board members at this time took the opportunity to extend their appreciation to Steve Sandy, Zoning Administrator. Mr. Sandy submitted his resignation to take a position in Franklin County.

## **PUBLIC ADDRESS**

Frank Lau addressed the Board on two items: Cash Proffers and the Roger Woody Rezoning request. Mr. Lau reported he is dismayed that the cash proffer project has been dropped. He believes there are other ways to help the schools and transportation system. He suggested that a fee be added for recording of transactions that takes place in the County, such as recording of deeds, wills, etc. Mr. Lau also expressed concerns with the amount of traffic that will be generated due to the commercial development proposed by Roger Woody and the impact to US 460 Business and to Wheatland Retirement Community.

Mike Robinson expressed concerns with the Roger Woody rezoning and suggested alternatives to help alleviate traffic problems on Farmview Road and Sunset Drive. He asked how could a commercial development of this size be allowed with only one ingress/egress road. Another access road needs to be off Route 114 to help traffic congestion on Farmview Road.

Karen Thompson, Wheatland Retirement Community, expressed concerns with the amount of traffic the proposed Roger Woody development will generate on Farmview Road. The traffic impact study submitted by the developer reports that traffic will be estimated at 10,000 – 17,000 vehicles per day. Ms. Thompson believes the proffer to construct another access road when the traffic is at 10,000 vpd is not adequate, this access road should be constructed at the beginning of the development.

Charlie Bowles commended Steve Sandy, Zoning Administrator, for his dedication and sensitivity towards the citizens of Montgomery County.

James McDaniel addressed the Board on behalf of Nannie Hairston with concerns about the proposed Roger Woody development. Mr. McDaniel urged the Board to place the proper development restrictions on the development in order to allow the Hairston family to enjoy their property. Mr. McDaniel cited concerns with the increased traffic on Farmview Road, including heavy truck traffic. He asked that additional buffers be proffered and the height of the outdoor lights be restricted.

Michael King spoke in support of the \$130 million bond issuance for capital projects. Mr. King believes this will provide the needed funding for school construction. It is important to provide the best possible education for the children in Montgomery County.

There being no further speakers, the public address session was closed.

## **CONSENT AGENDA**

**At the request of Supervisor Muffo, Item # E, Entitled Appointments to the Transportation Safety Commission, was removed from the Consent Agenda in order for staff to confirm reappointments.**

On a motion by Mary W. Biggs, seconded by John A. Muffo and carried unanimously, the Consent Agenda dated December 18, 2006 was approved

The vote on the foregoing motion was as follows:

<u>AYE</u>	<u>NAY</u>
Gary D. Creed	None
Doug Marrs	
Mary W. Biggs	
Annette S. Perkins	
James D. Politis	
John A. Muffo	
Steve L. Spradlin	

## **Approval of Minutes**

On a motion by Mary W. Biggs, seconded by John A. Muffo and carried unanimously, the minutes dated September 11, 2006 were approved.

**R-FY-07-86**  
**SCHEDULE PUBLIC HEARING**  
**FY 2007-2008 BUDGET**

On a motion by Mary W. Biggs, seconded by John A. Muffo and carried unanimously,

BE IT RESOLVED, That the Board of Supervisors of the County of Montgomery, Virginia hereby schedules a public hearing for Monday, January 8, 2007 at 7:15 p.m., or as soon thereafter, in the Board Chambers, Montgomery County Government Center, 755 Roanoke Street, Christiansburg, Virginia for the purpose of receiving citizens' comments on the following:

Fiscal Year 2007-2008 County Budget

**The purpose of this public hearing is to gather citizen comments on the upcoming 2007-2008 fiscal year budget.**

**R-FY-07-87**  
**SCHEDULE PUBLIC HEARING**  
**PROPOSED ORDINANCE AMENDING CHAPTER 7, SECTION 7-6**  
**ENTITLED PHYSICAL CONTACT WITH MEMBERS OF THE OPPOSITE SEX**  
**AT MASSAGE PARLORS**

On a motion by Mary W. Biggs, seconded by John A. Muffo and carried unanimously,

BE IT RESOLVED, That the Board of Supervisors of the County of Montgomery, Virginia, hereby schedules a Public Hearing for January 22, 2007, at the Montgomery County Government Center, 755 Roanoke Street, Christiansburg, Virginia, Board Meeting Room, 2<sup>nd</sup> Floor, in order to hear citizens comments on a proposed Ordinance Amending Chapter 7, Section 7-6 of the Montgomery County Code Entitled Physical Contact With Members of Opposite Sex at Massage Parlors By Adding Licensed Massage Therapist To The List of Professions That Are Exempt Under the Provision.

**A-FY-07-68**  
**PARKS AND RECREATION**  
**APPROPRIATION**

On a motion by Mary W. Biggs, seconded by John A. Muffo and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that the General Fund was granted an appropriation in addition to the annual appropriation for the fiscal year ending June 30, 2007, for the function and in the amount as follows:

700	Parks and Recreation	\$2,060
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The source of the funds for the foregoing appropriation is as follows

Revenue Account

416010	Outdoor Recreation Fees	\$2,060
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Said resolution appropriates funds for the "learn to ski" program in the Parks and Recreation Department.

**R-FY-07-88**  
**RESOLUTION AMENDING AND REESTABLISHING**  
**THE TOWING ADVISORY BOARD**

On a motion by Mary W. Biggs, seconded by John A. Muffo and carried unanimously,

WHEREAS, On July 12, 2006 the Board of Supervisors created the Towing Advisory Board consisting of two representatives from law enforcement, three representatives from the towing and recovery operators, three residents from the County of Montgomery and one representative from the Montgomery County Fire and Rescue departments; and



WHEREAS, The Virginia General Assembly amended Section 46.2-1233.2 of the Code of Virginia, as amended, changing the voting member make up of local towing advisory boards by requiring an equal number of representatives of law enforcement and towing and recovery operators and only one citizen member from the general public voting on the Board; and

WHEREAS, The Board of Supervisors of the County of Montgomery, Virginia desires to amend the Towing Advisory Board to comply with the State law changes by amending and reestablishing the Towing Advisory Board to consist of two law enforcement representatives, two towing and recovery operator representatives, one citizen member residing in Montgomery County as voting members, with one representative from the Montgomery County Fire and Rescue Departments as a non-voting member on the Board.

NOW, THEREFORE, BE IT RESOLVED, By the Board of Supervisors of the County of Montgomery, Virginia that the Board of Supervisors hereby amends and reestablishes an advisory board to be known as the Towing Advisory Board. The Towing Advisory Board shall derive its authority from and be administered by the Board of Supervisors. The Towing Advisory Board shall be appointed by the Board of Supervisors and shall consist of the following:

1. One Representative from the Montgomery County Sheriff's Office
2. One Representative from the Virginia State Police
3. Two Representatives from the towing and recovery operators who have towing and recovery businesses in Montgomery County, Virginia
4. One Citizen Representative who resides in the County of Montgomery
5. One Representative from one of the Montgomery County Fire and Rescue Departments as a non-voting member
6. One Alternate Representative each from the Sheriff's Office, State Police, Towing and Recovery Operators, and citizen representative to fill in and vote when that particular member cannot attend.

The members of the Advisory Board shall be appointed for terms of four years; provided, however, the first appointed members shall have staggered terms with (3) members being appointed for a two-year term, three (3) members being appointed for three-year terms and three (3) members being appointed for four-year terms. All subsequent appointments shall be four (4) year terms. All vacancies on the board shall be filled by the Board of Supervisors for the unexpired portion of the term. The members of the Advisory Board shall serve without compensation. The Board shall elect annually a chairperson, vice-chairman and secretary from among its members. The Advisory Board shall establish its own set of by-laws and rules of procedure. The Advisory Board shall hold meetings on such days and at such hours as may be fixed by the Advisory Board.

BE IT FURTHER RESOLVED, By the Board of Supervisors that it shall be the duties and purpose of the advisory Board to act in an advisory capacity and make recommendations to the Board of Supervisors on issues relating to rates to be charged by towing and recovery operators for towing within the County, the regulations that towing or recovery operators are to be regulated by, and such other duties as may be assigned to it by the Board of Supervisors.

**R-FY-07-89  
INTERIM ZONING ADMINISTRATOR  
APPOINTMENT**

On a motion by Mary W. Biggs, seconded by John A. Muffo and carried unanimously,

BE IT RESOLVED, That the Board of Supervisors of Montgomery County, Virginia hereby appoints Tunstall C. Powers, Jr. as Zoning Administrator for the purpose of carrying out the responsibilities of administering the Montgomery County Zoning Ordinance.

**OLD BUSINESS**

**ORD FY-07-09  
AN ORDINANCE AMENDING THE ZONING CLASSIFICATION  
OF APPROXIMATELY 28.32 ACRES FROM AGRICULTURE (A-1) TO GENERAL  
BUSINESS (GB) LOCATED ON THE NORTHEAST SIDE OF  
FARMVIEW ROAD, EAST OF NORTH FRANKLIN ST (US 460 BUS)  
AND WEST OF THE US ROUTE 460 (BYPASS), WITH PROFFER PROVIDING  
INTERPARCEL ACCESS TOWARD STATE ROUTE 114  
ROGER WOODY**

On a motion by Doug Marrs, seconded by Gary D. Creed and carried unanimously,

BE IT ORDAINED, By the Board of Supervisors of Montgomery County, Virginia that it hereby finds that the proposed rezoning is in compliance with the Comprehensive Plan and meets the requirement for public necessity, convenience, general welfare and good zoning practice, and therefore the zoning classification of that certain tracts or parcels of land consisting of 28.324 acres of land is hereby amended and rezoned from the zoning classification of Agriculture (A-1) to General Business (GB) subject to the following proffer condition:

1. Once the development produces an average of 10,000 trips per day on Farmview Road, the applicant shall provide an interparcel access going from the applicant's property that is subject to this rezoning, toward State Route 114. This interparcel access will run on land owned by the applicant, through the K-Mart parking lot adjacent to the K-Mart building and it will terminate at Laurel Street, which provides further access to State Route 114. If a more desirable access way leading to State Route 114 via Welcome Street, the lower property from Arbor Drive, or elsewhere becomes available prior to the installation of this interparcel access way, the more desirable access may be built in lieu of the one cited above adjacent to K-Mart.

This action was commenced upon the application of Roger Woody and Roger Woody T/A Showcase Home Builders.

The property is located on the northeast side of Farmview Road, east of North Franklin St (US 460 BUS) and west of the US Route 460 (Bypass), and is identified as Tax Parcel No(s). 79-A-23, 24-26, 26A; 79-A-142, 143-147 (Acct #'s 017576, 021678, 026179, 021680, 032861, 001650, 006010, 021677, 001730, 029424, 001729) in the Shawsville Magisterial District (District B). The property currently lies in an area designated as Urban Expansion in the Comprehensive Plan.

BE IT FURTHER ORDAINED, That the Board hereby instructs County staff to forward to the Town of Christiansburg the concerns raised by the citizens regarding the development of the property such as traffic flow, traffic congestion, buffers to protect adjacent property, noise, commercial lighting spillover, and possible dust control issues such that the Town staff can mitigate such inputs in accordance with the Town's subdivision site plan review and other land use and building controls as prescribed by the Town Manager's letter of October 2, 2006 and statement recorded at the October 23, 2006 Board of Supervisors meeting.

This ordinance shall take effect upon adoption.

The vote on the foregoing ordinance was as follows:

<u>AYE</u>	<u>NAY</u>
Mary W. Biggs	None
Annette S. Perkins	
James D. Politis	
John A. Muffo	
Gary D. Creed	
Doug Marrs	
Steve L. Spradlin	

The Board asked staff to forward the citizens' concerns regarding Roger Woody's proposed development to the Town of Christiansburg. Chair Spradlin noted that there needs to be a safe ingress and egress for Wheatland Retirement Community and asked the Town of Christiansburg to give special consideration of this.

**ORD-FY-07-10**

**AN ORDINANCE AMENDING CHAPTER 8, ENTITLED PLANNING  
AND DEVELOPMENT, SECTION 8-153 OF THE CODE OF THE COUNTY  
OF MONTGOMERY, VIRGINIA LIMITING THE LOCATION OF PRIVATE  
SEPTIC SYSTEMS IN MAJOR SUBDIVISIONS TO EITHER WITHIN THE  
LOT IT INTENDS TO SERVE OR WITHIN GREEN SPACE SET ASIDE  
UNDER THE COMPACT DEVELOPMENT OPTION**

On a motion by Annette S. Perkins, seconded by Mary W. Biggs and carried unanimously,

BE IT ORDAINED, By the Board of Supervisors of the County of Montgomery, Virginia, that Chapter 8, Entitled Planning and Development, section 8-153 shall be amended and reordained as follows:

**Sec. 8-153. Water and sewage facilities.**

(a) If the boundary of the subdivision lies within two hundred (200) feet of a public water or public sewer system, the subdivider shall make the necessary improvements to connect all lots to such systems; provided that any necessary easements can be secured either by the subdivider or the utility, and that the public utility has the capacity needed to serve the subdivision. The board of supervisors may permit an exception to this requirement if connection to a public system can only be achieved by crossing a highway, railway, or stream or by connection to a force main sewer line. If the subdivider intends to provide a private water system or private sewer system, the subdivider shall submit construction plans and specifications therefore, and such shall be subject to the bond and other security provisions guaranteeing construction and maintenance provided elsewhere in this article. All construction plans must be approved by the appropriate agency prior to the approval of the final plat.

(b) If there are no plans to extend public sewer or approved private sewer to the subdivision, the agent or the board of supervisors shall not approve the final plat until the subdivider provides a written statement from the health department certifying the suitability of the subdivision for private on-site sewage disposal ~~septic~~ systems. Such certification shall state that soil evaluations have been performed and that each lot to be served by a private on-site sewage disposal ~~septic~~ system meets health department requirements for such a system. The following types of lots are exempt from this requirement:

- (1) Remainders, as defined in this article;
- (2) Lots intended to contain only an existing structure with an existing approved septic system; and
- (3) Lots that are to be used only for special purposes that do not require human presence, such as power substations, radio towers, pump stations, etc. A note shall be included on the plat to specify the use of such a lot and to state that it is not approved for construction of any occupied structure.

bb When private on-site sewage disposal systems are used in major subdivisions, each private system shall be located either within the lot it intends to serve or within green space set aside under compact development option of the zoning ordinance.

(c) Within flood prone areas all public water systems and public sewer systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters. Onsite waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

The vote on the foregoing ordinance was as follows:

AYE

James D. Politis  
John A. Muffo  
Gary D. Creed  
Doug Marrs  
Mary W. Biggs  
Annette S. Perkins  
Steve L. Spradlin

NAY

None

**ORD-FY-07-11**

**AN ORDINANCE AMENDING CHAPTER 8, ENTITLED PLANNING  
AND DEVELOPMENT, SECTIONS 8-152, 8-173 AND 8-174 RESPECTIVELY OF THE  
CODE OF COUNTY OF MONTGOMERY, VIRGINIA, REQUIRING  
A NOTE TO BE PLACED ON PLATS AND DEEDS ADVISING PROSPECTIVE  
BUYERS OF THEIR OBLIGATION FOR ROAD MAINTENANCE AND  
IMPROVEMENTS WHEN A SUBDIVISION IS TO BE SERVED BY A PRIVATE  
STREET OR ACCESS EASEMENT**

On a motion by Mary W. Biggs, seconded by John A. Muffo and carried unanimously,

BE IT ORDAINED, By the Board of Supervisors of the County of Montgomery, Virginia, that Chapter 8, Entitled Planning and Development, Sections 8-152, 8-173 and 8-174 respectively shall be amended and reordained as follows:

**Sec. 8-152. New streets.**

(a) *Public streets.* New public streets are permitted in all subdivisions. Public streets shall be designed and constructed in accordance with the minimum standards of the Virginia Department of Transportation, except that the surface pavement layer shall be asphalt concrete. Street construction plans must be approved by the Virginia Department of Transportation prior to approval of the final plat.

(b) *Private streets.* In order to promote efficient utilization of land, or to reduce the number of access points to public streets, the board of supervisors may permit construction of private streets so long as such streets are not likely to inhibit future development of adjacent land. Private streets may be permitted in the following types of developments:

- (1) Commercial or industrial developments. Approval will be based upon review of an access plan that shall include construction specifications, as well as a maintenance plan or agreement.
- (2) Townhouse developments. Streets shall be surfaced with bituminous concrete. Approval will be based upon review of an access plan that shall include construction and pavement specifications, as well as a maintenance plan or agreement. ~~The subdivider shall require a statement to be included on the subdivision plat and in each deed stating that the streets are private streets and that the streets do not meet state standards, if applicable, and will not be maintained by the state or county.~~
- (3) Single-family housing developments. Private streets may be permitted only if the subdivision has a median lot size of three (3) acres or greater, and a length of street per lot ratio of one hundred fifty (150) feet per lot or greater. Such streets shall have a maximum grade of eighteen (18) percent and a minimum width of all-weather surface or pavement of eighteen (18) feet. Approval will be based upon review of an access plan that shall include construction specifications, as well as a maintenance plan or agreement. ~~The subdivider shall require a statement to be included on the subdivision plat and in each deed stating that the streets are private streets and that the streets do not meet state standards, if applicable, and will not be maintained by the state or county.~~

(bb) *Private access easements.* Private access easements at least forty (40) [feet] in width providing ingress and egress to a dedicated recorded public street may be permitted in the Agricultural A-1 zoning district and private access easements at least twenty (20) feet in width providing ingress and egress to a dedicated recorded public street may be permitted to serve a family subdivision subject to the following: ~~When permitted, the subdivider shall require a statement to be included on the subdivision plat and in each deed stating that the access easements are private access easements and that the access easements do not meet state standards, if applicable, and will not be maintained by the state or county.~~

(1) Any Private Access easements serving a total of three (3) or less lots or tracts shall be constructed with an all-weather surface.

(2) Any Private Access easements serving a total of four (4) or more lots or tracts shall be reviewed and constructed in accordance with the provisions of this article for private streets in single-family housing developments.

(bbb) Any and all streets and private access easements providing ingress and egress that are not constructed to meet the standards necessary for inclusion in the system of state highways shall be privately maintained and shall not be eligible for acceptance into the system of state highways unless improved to current Department of Transportation standards with funds other than those appropriated by the General Assembly and allocated by the Commonwealth Transportation Board. A note shall be placed on all plats and deeds of subdivisions when a subdivision is served by a private street and/or a private access easement advising that the streets and access easements are not eligible for maintenance or improvements with funds allocated by either the General Assembly of Virginia or the Commonwealth Transportation Board as required by Section 8-173 and 8-174.

(c) *Cul-de-sac.* Dead-end streets shall have cul-de-sac-type turnarounds at their ends, with radius equal to the right-of-way width. Dead-end streets shall serve no more than thirty-five (35) dwelling units, unless the board of supervisors determines that terrain or other factors dictate otherwise.

(d) *Access.* New subdivisions shall have access to a street dedicated to the public or to a street shown upon a plat approved by the agent and recorded in the office of the clerk of the appropriate court.

(e) *Street identification signs.* Street identification signs of a design approved by the agent shall be installed at all intersections by the subdivider.

(f) *Reserve strips.* There shall be no reserve strips controlling access to streets.

(g) *Alignment and layout.* The arrangement of streets in new subdivisions shall make provision for the continuation of existing streets in adjoining areas. The street arrangements must be such as to cause no unnecessary hardship to owners of adjoining property when they plat and seek to provide for convenient access to their own land. Where, in the opinion of the board of supervisors, it is desirable to provide for street access to adjoining property, proposed streets shall be extended by dedication to the boundary line of such property. Half streets along the boundary of land proposed for subdivision are not to be permitted. Streets shall be related appropriately to the topography. Whenever possible, streets should intersect at right angles.

#### **Sec. 8-173. Preliminary plat, major subdivisions.**

(a) The subdivider shall submit three (3) copies of a preliminary plat to the agent. Preliminary plats must be drawn to scale and shall contain the following items:

(1) When the parcel to be subdivided is located within a previously platted subdivision, the name of such subdivision. When the property is not located within a previously platted subdivision, either the proposed name of the subdivision or the locally known name of the property.

- (2) The name and address of the legal owner, date of purchase, previous owner and, if the deed is recorded, deed book and page number and plat book and page number. If the subdivider is other than the owner, the name and address of the subdivider shall also be given. When the legal owner or the subdivider is a corporation, then the name and address of the chief officer of the corporation shall also be given.
- (3) The name and address of any surveyor, engineer or other professional involved in the plat design and preparation.
- (4) Delineation of any existing and proposed easements and rights-of-way affecting the use of the property.
- (5) The location of the proposed subdivision by an inset map at a scale of not less than two (2) inches equal one (1) mile, showing adjoining roads, their names and numbers, towns, subdivisions, true north arrow and other landmarks.
- (6) Location of the property by tax parcel map number, parcel ID number, zoning district magisterial district, north arrow, with source of meridian, date of drawing, number of sheets and graphic scale.
- (7) Location and dimensions of property lines, location of building setback lines, total acreage, acreage of subdivided area, acreage of dedicated right-of-ways, number and approximate area and frontage of all lots, existing buildings within the boundaries of the tract and names of owners and their property lines within the boundaries of the tract and adjoining such boundaries.
- (8) All existing, platted and proposed streets, their names, numbers and widths; existing utility or other easements; public areas; culverts, drains and watercourses and their names; and other pertinent data.
- (9) All parcels of land to be dedicated for public use and the conditions of such dedication.
- (10) Proposed connections with existing sanitary sewers and existing water supply or alternate means of sewage disposal and water supply.
- (11) Provisions for collection and discharging surface drainage.
- (12) Location of any lot to be designated as a remainder, as defined in this article.
- (13) Any additional data deemed necessary by the agent, such as topography.
- (14) Table listing acreage and frontage for each lot.
- (15) Table of assignment of lots under sliding scale, if applicable.
- (16) Location of lands within the one hundred-year floodplain and base flood elevations when required.
- (17) Location of any grave, object or structure marking a place of burial.
- (18) Whenever a subdivision is to be served by private streets or private access easements a note shall be placed on the plat and on the deeds of subdivision stating "The streets and/or private access easements in this subdivision do not meet the standards necessary for inclusion in the system of state highways and shall not be maintained by the Department of Transportation or the County of Montgomery and are not eligible for rural addition funds or any other funds appropriated by the General Assembly of Virginia and allocated by the Commonwealth Transportation Board".

(b) The agent shall make a recommendation to the planning commission concerning approval or disapproval of the preliminary plat. The commission shall then approve or disapprove the preliminary plat.

(c) The commission shall advise the subdivider in writing of approval or disapproval of the preliminary plat. In the case of disapproval, the commission shall state the reasons for disapproval and notify the subdivider of all changes needed to make the plat acceptable. Approval by the commission of the preliminary plat does not constitute a guarantee of approval of the final plat.

(d) The subdivider shall submit a final plat within one (1) year of the approval of a preliminary plat. Failure to do so shall make the preliminary plat null and void. The commission may, on written request from the subdivider, grant an extension of this time limit.

#### **Sec. 8-174. Final plat, minor subdivisions and family subdivisions.**

(a) The subdivider shall submit two (2) copies of a final plat to the agent. Each plat shall contain the following items:

- (1) All certifications required by section 8-134;
- (2) A note identifying the plat as either a minor subdivision or a family subdivision;
- (3) Location of all existing easements and any new easements required under the provisions of this article;
- (4) Location of approved septic drainfields and reserve areas. Location of existing dwellings and their septic drainfields and reserve areas;
- (5) Any additional data deemed necessary by the agent, such as topography; and
- (6) A space for the agent to sign the plat.
- (7) Table of assignment of lots under sliding scale, if applicable.
- (8) Location of lands within the one hundred-year floodplain.
- (9) Location of any grave, object or structure marking a place of burial.
- (10) Whenever a subdivision is to be served by private streets or private access easements a note shall be placed on the plat and on the deeds of subdivision stating "The streets and/or private access easements in this subdivision do not meet the standards necessary for inclusion in the system of state highways and shall not be maintained by the Department of Transportation or the County of Montgomery and are not eligible for rural addition funds or any other funds appropriated by the General Assembly of Virginia and allocated by the Commonwealth Transportation Board".

(b) When all requirements of this article have been met, the agent shall sign the plat to indicate that it is approved for recordation.

(c) It shall be the responsibility of the subdivider to file the approved final plat with the office of the clerk of the appropriate court within six (6) months after final approval; otherwise, the agent shall mark such plat "void" and notify the office of the clerk of the appropriate court. At the same time of filing of the final plat, the subdivider shall record the agreement of dedication and such other legal documents as the local government attorney requires to be recorded.

The vote on the foregoing ordinance was as follows:

AYE

James D. Politis

John A. Muffo

Gary D. Creed

Doug Marrs

Mary W. Biggs

Annette S. Perkins

Steve L. Spradlin

NAY

None

**ORD-FY-07-12**

**AN ORDINANCE AMENDING CHAPTER 8, ENTITLED  
PLANNING AND DEVELOPMENT, SECTION 8-174 OF THE  
CODE OF THE COUNTY OF MONTGOMERY, VIRGINIA, REQUIRING  
CERTAIN ADDITIONAL DOCUMENTATION AND CERTIFICATIONS  
FOR SUBDIVISIONS USING THE FAMILY EXEMPTION**

On a motion by Mary W. Biggs, seconded by John A. Muffo and carried unanimously,

BE IT ORDAINED, By the Board of Supervisors of the County of Montgomery, Virginia, that Chapter 8 Section 8-174 of the Code of the County of Montgomery, Virginia shall be amended and reordained as follows:

**Sec. 8-174. Final plat, minor subdivisions and family subdivisions.**

(a) The subdivider shall submit two (2) copies of a final plat to the agent. Each plat shall contain the following items:

- (1) All certifications required by section 8-134;
- (2) A note identifying the plat as either a minor subdivision or a family subdivision;
- (3) Location of all existing easements and any new easements required under the provisions of this article;
- (4) Location of approved septic drainfields and reserve areas. Location of existing dwellings and their septic drainfields and reserve areas;
- (5) Any additional data deemed necessary by the agent, such as topography;
- (6) A space for the agent to sign the plat.
- (7) Table of assignment of lots under sliding scale, if applicable.
- (8) Location of lands within the one hundred-year floodplain.
- (9) Location of any grave, object or structure marking a place of burial.

(aa) If a proposed subdivision is using the family exemption provision, in addition to the above requirements, the following must also be included:

- (1) A note stating "Approval of this subdivision is subject to the condition that the parcel subdivided can only be conveyed to a member of the immediate family as set forth in Montgomery County's Subdivision Ordinance, as amended, and the Code of Virginia, as amended. Conveyance to any other person or entity not an immediate family member voids approval. This restriction does not apply to subsequent reconveyance".
- (2) Signed Affidavits that are available in the County Planning Department stating that the family subdivision is for the passing of real property interest from one family member to another, rather than for the purpose of short-term investment.



(3) A copy of the proposed deed(s) conveying the property from one family member to the other.

(4) A description of the family relationship in the consent statement or the following shown and notarized on the plat: "I , do hereby verify that is my legal . New tract is being conveyed to "

(b) When all requirements of this article have been met, the agent shall sign the plat to indicate that it is approved for recordation.

(c) It shall be the responsibility of the subdivider to file the approved final plat with the office of the clerk of the appropriate court within six (6) months after final approval; otherwise, the agent shall mark such plat "void" and notify the office of the clerk of the appropriate court. At the same time of filing of the final plat, the subdivider shall record the agreement of dedication and such other legal documents as the local government attorney requires to be recorded.

The vote on the foregoing ordinance was as follows:

<u>AYE</u>	<u>NAY</u>
John A. Muffo	None
Gary D. Creed	
Doug Marrs	
Mary W. Biggs	
Annette S. Perkins	
James D. Politis	
Steve L. Spradlin	

#### **ORD-FY-07-13**

#### **AN ORDINANCE AMENDING CHAPTER 10, ENTITLED ZONING, SECTION 10-2 OF THE CODE OF THE COUNTY OF MONTGOMERY, VIRGINIA, BY INCREASING THE HEIGHT EXEMPTION FOR ANTENNAS EXCEPT FOR PROVISIONS OF THE AIRPORT SAFETY OVERLAY DISTRICT FROM SIXTY-FIVE (65) FEET TO SEVENTY-FIVE (75) FEET.**

On a motion by Mary W. Biggs, seconded by Doug Marrs and carried unanimously,

BE IT ORDAINED, By the Board of Supervisors of the County of Montgomery, Virginia, that Chapter 10 Entitled Zoning Section 10-2 of the Code of the County of Montgomery, Virginia, shall be amended and reordained as follows:

#### **Sec. 10-2. Application of chapter.**

(1) *Territorial application.* The regulations and restrictions in this chapter shall apply to all buildings, structures, land, water and uses within the unincorporated area of Montgomery County, Virginia, excepting those areas determined by law to be under the sovereign control of the United States of America or the Commonwealth of Virginia.

(2) *General application.* All buildings and structures erected hereafter, all uses of land, water or buildings established hereafter, all structural alterations or relocations of existing buildings occurring hereafter, and all enlargements of, additions to, changes in and relocations of existing uses occurring hereafter shall be subject to all regulations of this chapter which are applicable to the zoning districts in which such buildings, structures, uses or land are located. Existing buildings, structures and uses which comply with the regulations of this chapter shall likewise be subject to all regulations of this chapter.

Existing buildings, structures and uses which do not comply with regulations herein shall be subject to the provisions of article IV (section 10-47) of this chapter relating to nonconformities.

(3) *General prohibition.* No building or structure, no use of any building, structure or land, and no lot of record now or hereafter existing shall hereafter be established, altered, moved, diminished, divided, eliminated or maintained in any manner except in conformity with the provisions of this chapter.

(4) *Compliance with chapter required.* All departments, officials and public employees of the county that are vested with the duty or authority to issue permits or licenses shall conform to the provisions of this chapter. They shall issue permits for uses, buildings or purposes only when they are in harmony with the provisions of this chapter. Any such permit if issued in conflict with the provisions of this chapter shall be null and void.

(5) *Exemptions.*

- (a) Pursuant to section 56-46.1 of the Code of Virginia, electrical transmission lines of 150 kV or more, approved by the State Corporation Commission, shall be deemed to have satisfied the requirements of this chapter. In addition, the following utility uses are exempt from the provisions of this article: poles, wires, cables, conduits, vaults, laterals, pipes, valves, meters or any other similar equipment when used for the purpose of distributing service to individual customers within an approved or established service area, but not including telecommunications towers, plants, substations, major transmission lines, or trunk lines located on or above the surface of the ground, for any type of utility service, nor for underground trunk lines providing public water or sewerage service.
- (b) Except for provisions of the Airport Safety Overlay District (section 10-38) the height limitations of this chapter shall not apply to antennas less than ~~seventy-five (75) sixty-five (65)~~ feet in height, cupolas, barns, silos, farm buildings, chimneys, flag poles, water tanks, and monuments and necessary mechanical appurtenances not exceeding in height the distance therefrom to the nearest lot line.
- (c) Farm buildings and structures shall be exempt from the application of this chapter when the buildings and structures meet the minimum front, side and rear setbacks within the zoning district and the buildings and structures are located on property where farming operations take place and the property is primarily used for any of the following uses or combinations thereof:
  - 1. Storage, handling, production, display, sampling or sale of agricultural, horticultural, floricultural or silvicultural products produced on the farm;
  - 2. Sheltering, raising, handling, processing or sale of agricultural animals or agricultural animal products;
  - 3. Business or office uses relating to the farm operations;
  - 4. Use of farm machinery or equipment or maintenance or storage of vehicles, machinery or equipment on the farm;
  - 5. Storage or use of supplies and materials used on the farm; or
  - 6. Implementation of best management practices associated with the farm operations.

This exemption does not apply to a building or a portion of a building located on a farm that is operated as a restaurant as defined in section 35.1-1 of the Code of Virginia and licensed as such by the board of health under chapter 2 (section 35.1-11 et seq.) of Title 35.1 of the Code of Virginia.

- (d) Farm buildings and structures lying within a floodplain or in a mudslide-prone area shall be subject to floodproofing regulations or mudslide regulations, as applicable.

(6) *Relationship to private agreements.* This chapter is not intended to abrogate, annul or otherwise interfere with any easement, covenant or other private agreement or legal relationship, provided, however, that where the regulations of this chapter are more restrictive or impose higher standards or requirements than such private agreements or legal relationships, the regulations of this chapter shall govern.

(7) *Zoning of annexed land.* Any land that is annexed from the county into an incorporated town or independent city, or that is reverted to the county from an incorporated town or independent city, shall be regulated in accord with the terms of the annexation or reversion agreement that establishes such change in governance.

(8) *Effect of chapter on existing plans, permits and lots.* Nothing contained in this chapter shall require any change in the plans or construction of any building or structure for which a permit was granted prior to December 13, 1999. If construction is discontinued for a period of six (6) months, further

construction shall be in conformity with the provisions of this chapter for the district in which the operation is located.

(9) *Effect of chapter on existing districts.* At the effective date of this chapter, the previously existing Montgomery County Zoning Ordinance is hereby repealed, and this chapter replaces it in its entirety. Further, all property in Montgomery County shall retain the zoning district classification as named under the previous Zoning Ordinance except as amended and otherwise provided by this chapter. The following zoning district as named in the previous Zoning Ordinance is hereby repealed: A-2 Agricultural and Conservation.

(10) *Effective date.* This chapter shall become effective at 12:01 a.m. the day after its adoption by the Montgomery County Board of Supervisors. It is thus effective as of December 13, 1999.

(11) *Calculations of development density.*

(a) Calculations of development density, including lot, lot area, parent tract, net and gross density for residential development, floor area ratio for nonresidential development density, and other such terms, shall be made in accord with the formulas provided within the definitions of those terms in article VI of this chapter.

(a) Calculations of allowable floor area ratio shall be based upon the floor area ratio as established by the zoning district in effect for the site at the time a site plan for the lot is officially accepted for review by the county.

(12) *Authorization for constructing public facilities.*

(a) No public facility shall be constructed, established or authorized unless and until it has been determined by the zoning administrator to be excepted from review for conformity with the comprehensive plan, or its general or approximate location, character and extent has been formally reviewed and approved by the planning commission or board of supervisors as provided by section 15.2-2232 of the Virginia Code, as being in substantial accord with the county's adopted comprehensive plan or part thereof.

(b) Repair, reconstruction, improvement and normal service extensions of public facilities or public corporation facilities, unless involving a change in the location or extent of a street or public area shall be deemed to be in accordance with section 15.2-2232 of the Virginia Code. For purposes of this section, widening, extension, enlargement or change of use of public streets or public areas shall not be deemed to be excepted from the requirement of review for comprehensive plan conformity.

The vote on the foregoing ordinance was as follows:

AYE

Gary D. Creed

Doug Marrs

Mary W. Biggs

Annette S. Perkins

James D. Politis

John A. Muffo

Steve L. Spradlin

NAY

None

**ORD-FY-07-14**  
**AN ORDINANCE AMENDING CHAPTER 10 ENTITLED**  
**ZONING, SECTION 10-21 OF THE CODE OF THE COUNTY OF MONTGOMERY,**  
**VIRGINIA, TO ADD FARM ENTERPRISE WITH LESS THAN**  
**FORTY (40) FEET OF PUBLIC ROAD FRONTAGE AS A**  
**USE PERMITTED BY SPECIAL USE PERMIT APPROVED BY**  
**THE BOARD OF ZONING APPEALS**

On a motion by Gary D. Creed, seconded by Mary W. Biggs and carried unanimously,

BE IT ORDAINED, By the Board of Supervisors of the County of Montgomery, Virginia, that Chapter 10 Entitled Zoning, Section 10-21 of the Code of the County of Montgomery, Virginia, shall be amended and reordained as follows:

## **Sec. 10-21. A-1 Agricultural District.**

(1) *Purpose.* The A-1 Agricultural District is intended to preserve and enhance the rural, low density character and natural resources of the rural portions of the county where agriculture, forest and open space uses predominate, as well as to accommodate limited amounts of low density residential development that is generally not served by public water or wastewater systems.

This district is generally intended to apply to lands designated in the comprehensive plan as rural or resource stewardship areas. Land in this district is generally not intended to be served with public water or wastewater or to be in proximity to other public services.

(2) *Qualifying lands.* Lands qualifying for inclusion in the A-1 zoning district shall be those within the current A-1 district on the date of adoption of this chapter and other lands within areas mapped as rural or resource stewardship in the comprehensive plan. Qualifying lands shall generally not include those served or planned to be served by public water or sewer service. The minimum area required to create a district shall be ten (10) acres of total contiguous land.

(3) *Uses permitted by right.* The following uses are permitted by right, subject to compliance with all approved plans and permits, development and performance standards contained in this chapter, and all other applicable regulations:

- (a) Agriculture.
- (b) Agriculture, intensive.
- (c) Agriculture, small scale.
- (d) Bed and breakfast homestay.
- (e) Cemetery.
- (f) Church.
- (g) Dwelling, single-family.
- (h) Farm enterprise.
- (i) Fire, police and rescue stations.
- (j) Home occupation.
- (k) Manufactured (mobile) home, Class A or B.
- (l) Natural area.
- (m) Park, unlighted.
- (n) Pet, farm.
- (o) Pet, household.
- (p) Playground, unlighted.
- (q) Public utility lines, other; and public utility lines, water and sewer.
- (r) Sawmill, temporary.
- (s) School.
- (t) Telecommunications tower, attached.
- (u) Veterinary practice, animal hospital.

(4)(i) *Uses permissible by special use permit.* The following uses may be permitted by the board of supervisors as special uses, subject to the requirements of this chapter and all other applicable regulations:

- (a) Bed and breakfast inn.
- (b) Campground.
- (c) Camp, boarding.
- (d) Civic club.
- (e) Contractor's storage yard.
- (f) Country club.
- (g) Country inn.
- (h) Custom meat cutting, processing and packaging.
- (i) Day care center.
- (j) Disposal facility, landfill.
- (k) Exploratory activities associated with extractive industries.
- (l) Extractive industries and accessory uses including, but not limited to, the mining of minerals and the operation of oil and gas wells.
- (m) Game preserve.
- (n) Garden center.
- (o) General store or specialty shop, provided gross floor area is two thousand (2,000) square feet or less.
- (p) Golf course.
- (q) Golf driving range.

- (r) Grain mill, feed mill.
- (s) Home business.
- (t) Junkyard, automobile graveyard.
- (u) Kennel, commercial (refer to use limitations in subsection 7).
- (v) Landfill (see Disposal facility).
- (w) Livestock market.
- (x) Park, lighted.
- (y) Playground, lighted.
- (z) Public utility plant, other.
- (aa) Public utility substations.
- (bb) Public utility plant water or sewer (not including distribution or collection lines).
- (cc) Recreational vehicle park.
- (dd) Recycling collection points.
- (ee) Repair shop, automotive (refer to use limitations in subsection 7).
- (ff) Restaurant, provided gross floor area is two thousand (2,000) square feet or less.
- (gg) Rural resort.
- (hh) Sawmill.
- (ii) Shooting range (as principal use or accessory to a gun shop. Refer to use limitations in subsection 7).
- (jj) Slaughterhouse.
- (kk) Solid waste collection point.
- (ll) Stable, commercial.
- (mm) Structures, nonresidential, totaling in excess of twenty thousand (20,000) gross square feet.
- (nn) Structures over forty (40) feet in height.
- (oo) Telecommunications tower, freestanding.
- (pp) Flea market (also subject to requirements of article VI of the County Code).
- (qq) Impervious lot coverage greater than twenty (20) percent but less than twenty-five (25) percent.
- (rr) Stone engraving and sales.

(4)(ii) The following uses may be permitted by the board of zoning appeals as special uses, subject to the requirements of this chapter and all other applicable regulations:

- (a) Accessory structures greater than twelve hundred (1,200) square feet in area and/or eighteen (18) feet in height.
- (b) Farm Enterprise with less than forty (40) feet of public road frontage subject to the requirements of Section 10-41(18)(g) of this Zoning Ordinance.

(5) *Lot requirements.*

- (a) *Minimum lot area.* One (1.0) acre.
- (b) *Density.* In addition to the minimum required lot area defined above, the maximum gross density (total number of lots per parent parcel after subdividing) for residential development in the A-1 district shall be in accord with the following sliding scale:

Parent Parcel Area	Total Lots Permitted on Parent Parcel
Less than 1.0 acre	0 lots
Less than 2.0 acres	1 lot
Less than 3.0 acres	2 lots
3.0 to 10.0 acres	Up to 3 lots
More than 10.0 acres up to 30.0 acres	Up to 4 lots
More than 30.0 acres up to 50.0 acres	Up to 5 lots
More than 50.0 acres up to 70.0 acres	Up to 6 lots
More than 70.0 acres up to 90.0 acres	Up to 7 lots
More than 90.0 acres up to 110.0 acres	Up to 8 lots
More than 110.0 acres up to 130.0 acres	Up to 9 lots
	More than 130.0 Acres One (1) additional lot for every 20 acres over 130 acres

All lots in the A-1 district are subject to the above sliding scale and all applicable regulations for on-site water supply and wastewater treatment, which may limit the number of lots permitted; except for green space (open space) lots and conservation easements,

public utility, telecommunications towers or public water or sewer installation lots or similar which are not for habitation and which may be a minimum of ten thousand (10,000) square feet. Moreover, the board of supervisors may authorize the issuance of a special use permit for more lots than the total permitted by the sliding scale in situations where a family subdivision conflicts with the sliding scale.

- (c) *Clustering of permitted lots between parent parcels.* A landowner with several contiguous parent parcels may cluster the number of permitted lots from any one parent parcel to any other contiguous parent parcel provided the landowner merges the two (2) contiguous parent parcels into one (1) parcel by vacating the boundary line and all other lot requirements under this subsection (5) are met.
- (d) *Lot access.* Lots shall be accessed from a road in the Virginia Department of Transportation (VDOT) system or from a hard-surfaced private street designed by a professional engineer to meet current VDOT subdivision street requirements with one exception. Under the exception, one lot divided from any parent parcel may be served by a private access easement at least forty (40) feet in width.
- (e) *Maximum coverage.* No more than twenty (20) percent of any lot shall be covered by buildings or other impervious surfaces unless approved by special use permit but shall not exceed twenty-five (25) percent.
- (f) *Minimum width.* One hundred twenty (120) feet at the minimum setback line of the front yard. Frontage requirements for family subdivisions and public utility or public water or sewer installation lots shall be in accord with the Montgomery County Subdivision Ordinance.
- (g) *Maximum length/width ratio.* Five to one (5:1) for any lot less than twenty (20) acres in area.
- (6) *Building requirements.*
  - (a) *Minimum yards:*
    - 1. *Front.* Forty (40) feet (also refer to additional setback requirements pertaining to residential uses near intensive agricultural operations, section 10-41(16)).
    - 2. *Side.* Fifteen (15) feet for each principal structure.
    - 3. *Rear.* Forty (40) feet.
    - 4. *Accessory buildings.* No accessory building may be located closer than ten (10) feet to a side or rear lot line.
  - (b) *Maximum building height.* No building or structure, except for exempted structures provided for in section 10-2(5)(b) of this chapter, shall exceed forty (40) feet in height, as defined, except by special use permit and that for every one (1) foot above forty (40) feet, the building or structure shall be set back an additional two (2) feet up to a maximum of one hundred (100) feet.
- (7) *Use limitations.*
  - (a) *Repair shop, automotive.* All work must be conducted within a completely enclosed building no larger than twelve hundred (1,200) square feet in size; and the shop shall be at least three hundred (300) feet from any residential zoning district or existing dwelling, other than the owner's dwelling.
  - (b) *Kennels.* No principal or accessory use or structure shall be within five hundred (500) feet of an existing dwelling, other than the owner's dwelling, nor within three hundred (300) feet of any adjacent lot.
  - (c) *Shooting ranges.* Shooting ranges shall not operate between 10:00 p.m. and 7:00 a.m.

The vote on the foregoing ordinance was as follows:

AYE

Doug Marrs  
Mary W. Biggs  
Annette S. Perkins  
James D. Politis  
John A. Muffo  
Gary D. Creed  
Steve L. Spradlin

NAY

None

**ORD-FY-07-15**

**AN ORDINANCE AMENDING CHAPTER 10, ENTITLED ZONING, SECTION 10-29 OF THE CODE OF THE COUNTY OF MONTGOMERY, VIRGINIA, TO REPLACE THE USES PERMISSABLE BY SPECIAL USE PERMIT IN COMMUNITY BUSINESS LISTED AS RECREATION INDOOR AND RECREATION OUTDOOR WITH THE USE LISTED AS RECREATION ESTABLISHMENT.**

On a motion by Doug Marrs, seconded by Mary W. Biggs and carried unanimously,

BE IT ORDAINED, By the Board of Supervisors of the County of Montgomery, Virginia, that Chapter 10 Entitled Zoning Section 10-29 of the Code of the County of Montgomery, Virginia, shall be amended and reordained as follows:

**Sec. 10-29. CB Community Business.**

(1) *Purpose.* The Community Business, CB district is intended to create locations in the county for the provisions of nonintensive and small scale commercial services to the rural communities, residential transition, village, village expansion, or urban expansion designated in the comprehensive plan. Such locations shall be designated principally along the secondary road system where they are in the best interest of promoting community life and reducing travel costs. The scale and character of uses shall be compatible with crossroads settlement and village locations. Lighting, hours of operation and other characteristics shall respect neighboring uses and community character.

Activities in CB districts shall have limited traffic and other impacts on uses in other districts through proper location at street intersections, preference for locations adjoining existing nonresidential uses and zoning, and provision of space and physical buffers as prescribed. Areas designated for use in the comprehensive plan are best suited for rezoning to this district.

(2) *Qualifying lands.* Lands qualifying for inclusion in the district shall be those within the current CB district on the date of adoption, or other lands within areas mapped as rural communities, residential transition, village, village expansion, or urban expansion in the comprehensive plan which are served by or planned for connections to public sewer and water. Locations not meeting county criteria may be permitted if all water and sewage disposal facilities are approved by health official prior to approval of rezoning or special use permit. The minimum area required to create a district shall be one (1) acre of total contiguous land.

(3) *Uses permitted by right.* The following uses are permitted by right, subject to compliance with all approved plans and permits, development standards and performance standards contained in this chapter and with all other applicable regulations:

- (a) Apartment as accessory use, maximum of two (2) per business structure.
- (b) Assembly of electrical, electronic devices, less than twelve hundred (1,200) square feet floor area.
- (c) Automotive, light truck, sales, service, rental and repair, without motor fuel sales, less than two thousand (2,000) square feet.
- (d) Business or trade school.
- (e) Cabinet shop, furniture, upholstery, craft industry of less than twelve hundred (1,200) square feet.
- (f) Cemetery.

- (g) Church.
- (h) Civic club.
- (i) Conference or training center.
- (j) Crematorium.
- (k) Custom meat cutting, processing and sales (excluding slaughtering).
- (l) Day care facility.
- (m) Financial services.
- (n) Fire, police, rescue facility.
- (o) Funeral home.
- (p) General, convenience store less than three thousand (3,000) square feet, without motor fuel sales.
- (q) Homeless shelter.
- (r) Library.
- (s) Medical care facility.
- (t) Garden center.
- (u) Office, administrative, business or professional less than three thousand (3,000) square feet.
- (v) Park, unlighted.
- (w) Park and ride lot, unlighted.
- (x) Pet, household.
- (y) Post office.
- (z) Printing service.
- (aa) Public utility lines, other.
- (bb) Public utility lines, water or sewer.
- (cc) Restaurant.
- (dd) Retail sales and services less than three thousand (3,000) square feet.
- (ee) Roadside stand.
- (ff) School.
- (gg) Telecommunication tower, attached.

(4) *Uses permissible by special use permit.* The following uses may be permitted by the board of supervisors as special uses, subject to the requirements of this chapter and with all other applicable regulations:

- (a) Assembly of electrical, electronic devices, greater than twelve hundred (1,200) square feet floor area.
- (b) Truck, trailer sales, service, rental and repair with outside operations.
- (c) Building greater than thirty-five (35) feet in height.
- (d) Convenience store less than three thousand (3,000) square feet, with motor fuel sales.



- (e) Dwelling, single-family or two-family.
- (f) Farm machinery sales and service.
- (g) Feed and seed store and mill.
- (h) Golf course.
- (i) Golf driving range.
- (j) Kennel, commercial.
- (k) Public utility plant, other.
- (l) Public utility substation.
- (m) Public utility plant, water or sewer.
- (n) ~~Recreation, indoor.~~ Recreation Establishment
- ~~(o) Recreation, outdoor.~~
- ~~(p)~~ (o) Recycling facility.
- ~~(q)~~ (p) Telecommunication tower, freestanding.
- ~~(r)~~ (q) Veterinary practice, animal hospital.
- ~~(s)~~ (r) Mini-warehouse.
- ~~(t)~~ (s) Stone engraving and sales.
- (5) *Lot requirements.*

(a) *Minimum lot area.* Twenty thousand (20,000) square feet for lots sharing access with another lot and connected to public water or sewer, one (1) acre otherwise, except for public utility or public water or sewer installations which shall be in accordance with the Montgomery County Subdivision Ordinance.

(b) *Lot access.* Lots shall be accessed from a shared access drive connected to a road in the VDOT system wherever possible. Access roads shall be hard-surfaced roads designed by a professional engineer to accommodate projected volumes, loads and vehicle types and approved by the zoning administrator and the fire marshal. Lot access for CB uses shall avoid impacting residential subdivisions with primary access and through traffic.

(c) *Minimum width.* Seventy-five (75) feet for lots sharing access with another lot, one hundred fifty (150) feet otherwise. Width requirements for public utility or public water or sewer installations which shall be in accordance with the Montgomery County Subdivision Ordinance.

(d) *Maximum floor area ratio.* 0.40.

(e) *Maximum coverage by buildings.* Forty (40) percent.

(f) *Total impervious surface.* The total impervious surface located on a lot shall not exceed seventy-five (75) percent of the gross site area.

(6) *Building requirements.*

(a) *Minimum yards.*

1. *Front.* Fifty (50) feet when any off-street parking is in front of building and opposing street frontage is residential district; thirty-five (35) feet otherwise. Fifteen (15) feet when no off-street parking is in front of building.
2. *Side.* Forty (40) feet when adjacent lot is residential district; ten (10) feet otherwise.
3. *Rear.* Forty (40) feet when adjacent lot is residential district; ten (10) feet otherwise.

(b) *Maximum building height.* Thirty-five (35) feet (reference subsection (4) for exception).

(7) *Use limitations.*

(a) *Screening and landscaping.* Notwithstanding other buffer, landscaping and screening requirements of this chapter, outside storage areas for materials, equipment or trash are accessory uses, may not exceed forty (40) percent of building area, must be located in side or rear yards adjacent to building, and must be screened from view of adjacent streets or adjacent land.

(b) *Off-street parking and loading.*

1. Off-street parking permitted in required setback.
2. Must be provided in accordance with section 10-44.

(c) *Indoor/outdoor operations.* All repair and service operations must take place within a completely enclosed building, unless permission for outside operations is specifically granted by the board of supervisors in a special use permit.

The vote on the foregoing ordinance was as follows:

<u>AYE</u>	<u>NAY</u>
Annette S. Perkins	None
Mary W. Biggs	
James D. Politis	
John A. Muffo	
Gary D. Creed	
Doug Marrs	
Steve L. Spradlin	

**ORD-FY-07-16**

**AN ORDINANCE AMENDING CHAPTER 10, ENTITLED ZONING, SECTION 10-35 OF THE CODE OF THE COUNTY OF MONTGOMERY, VIRGINIA, TO MAKE IT PERMISSIBLE FOR SCHOOL SITES TO BE CONSIDERED IN CALCULATING OPEN SPACE WITHIN PLANNED UNIT DEVELOPMENT RESIDENTIAL DISTRICT.**

On motion by Gary D. Creed, seconded by Mary W. Biggs and carried unanimously,

BE IT ORDAINED, By the Board of Supervisors of the County of Montgomery, Virginia, that Chapter 10 Entitled Zoning Section 10-35 of the Code of the County of Montgomery, Virginia, shall be amended and reordained as follows:

**Sec. 10-35. PUD-RES Planned Unit Development-Residential district.**

(1) *Purpose.* This district is established to provide for the development of planned residential communities that incorporate a variety of housing options as well as commercial and office uses. This district is intended to allow greater flexibility than is generally possible under conventional zoning district regulations. This district is intended to encourage ingenuity, imagination, and high quality design on the part of the developer. The end result of design is to support a superior neighborhood environment and promote a sense of community. The protection of important natural and cultural resources is to be accomplished in exchange for development flexibility and economies. Design must have equal or less impact on surrounding areas than a standard residential district.

(2) *Qualifying lands.* Lands qualifying for inclusion in the district shall be PUD-RES on the date of passage of this chapter, or other lands within areas mapped as village, village expansion or urban expansion in the comprehensive plan which are served by or planned for connections to public sewer and water. The minimum area required to create a district shall be fifty (50) net acres of total contiguous land in the urban expansion area and twenty (20) net acres in the village or village expansion area.

(3) *Uses permitted by right.* The following uses are permitted by right, subject to compliance with all approved plans and permits, development standards and performance standards contained in this chapter:

- (a) Cemetery.
- (b) Church.
- (c) Civic club.

- (d) Conference or training center.
- (e) Congregate care facility.
- (f) Convenience store, without motor fuel sales.
- (g) Day care center.
- (h) Dwelling, multifamily (apartment).
- (i) Dwelling, single-family.
- (j) Dwelling, single-family attached (townhouse).
- (k) Dwelling, two-family (duplex).
- (l) Financial services.
- (m) Fire, police and rescue station.
- (n) Funeral home.
- (o) Golf course.
- (p) Group home.
- (q) Home occupation (new).
- (r) Library.
- (s) Medical care facility.
- (t) Mobile home, Class A.
- (u) Nursing home.
- (v) Office, administrative, business or professional.
- (w) Park, lighted or unlighted.
- (x) Pet, household.
- (y) Playground, lighted or unlighted.
- (z) Post office.
- (aa) Public facility.
- (bb) Public utility lines, other.
- (cc) Public utility lines, water or sewer.
- (dd) Recreation establishment.
- (ee) Recycling collection point.
- (ff) Restaurant with gross floor area of less than two thousand (2,000) square feet.
- (gg) Retail sales and services.
- (hh) School.
- (ii) Senior living facility.
- (jj) Telecommunication tower, attached.

(4) *Uses permitted by special use permit.* Other use types that are not listed above and that are determined to be appropriate and compatible with the proposed development and surrounding uses may be specifically approved in concurrent rezoning and special use permit applications or in a subsequent special use permit application.

(5) *Lot requirements.*

(a) *Minimum lot area, density.*

1. Lot area shall be determined by designation of one (1) or more base district (article II) designations on each land bay in the approved concept development plan. Variations from base district lot area may be permitted by the board of supervisors in cases where amenities and open space quantities in excess of zoning ordinance minimum requirements are provided as part of approval of the concept development plan.
2. Density shall be a maximum of four (4) dwelling units per net residential acre in urban expansion areas and three (3) dwelling units per net residential acre in village or village expansion areas.

(b) *Lot access.* Lots shall be accessed from a road in the VDOT system or from a hard-surfaced road designed by a professional engineer to accommodate projected volumes, loads and vehicle types and approved by the zoning administrator and the fire marshall. For additional standards see subsection (7).

(c) *Maximum coverage by buildings.* Twenty (20) percent.

(d) *Minimum width.* Minimum width shall be determined by designation of a base district designation on each land bay in the approved concept development plan.

(e) *Maximum coverage of impervious surface.* The maximum coverage of impervious surface on a lot shall be determined as part of the approved concept development plan.

(6) *Building requirements.*

- (a) *Minimum yards.* Yards shall be determined by designation of a base district designation on each land bay in the approved concept development plan.
- (b) *Maximum building height.* Thirty-five (35) feet in height unless authorized by special use permit.
- (c) *Variations permissible.* Variations from base district width, setback and or yards may be permitted by and at the sole discretion of the board of supervisors in cases where amenities and open space quantities in excess of zoning ordinance minimum requirements are provided as part of approval of the concept development plan and where intent of provisions of subsection (7) are met.

(7) *Use limitations.*

- (a) *[Public water and wastewater service.]* Public water and wastewater services are required for all development in the PUD-RES district.
- (b) *[Off-street parking and loading.]* Off-street parking and loading must be provided in accordance with section 10-44.

(c) *Commercial and/or office criteria.*

- 1. The maximum area for commercial and/or office uses shall be ten (10) percent of the net area of the project.
- 2. Commercial and office uses shall be screened and landscaped as for base districts in accord with the buffer/landscape matrix.
- 3. Construction of commercial and office uses shall not begin until twenty-five (25) percent of the residential units or two hundred twenty (220) dwelling units, whichever is less, of the total project have been issued certificates of occupancy.
- 4. Safe and convenient pedestrian access is required between the residential, commercial, and office uses within the project.
- 5. Commercial and office uses shall be oriented away from adjoining residential uses and access shall avoid impact on residential subdivisions from primary access and through traffic.
- 6. Lighting shall be designed and arranged to be oriented away from adjacent residential uses.

(d) *Open-space criteria.*

- 1. A minimum of twenty (20) percent of the total gross area of the development shall be reserved as common open space and/or recreational areas.
- 2. A minimum of twenty thousand (20,000) square feet of usable, active recreation space shall be contiguous. Trails and walkways shall not be included in this calculation.
- 3. Common open space shall not include existing and/or proposed street rights-of-way, parking areas as required or established under a county ordinance, driveways, or sites reserved for ~~schools or~~ places of religious assembly.
- 4. Common open space shall be arranged in a fashion to allow all residential areas within the development pedestrian access to the open space.
- 5. A minimum of thirty (30) percent of the common open space should be suitable for active recreational usage such as playgrounds, ballfields, bike paths, and trails. Suitable active open space should be of usable size, shape, location, and topography. A minimum of two hundred dollars (\$200.00) per dwelling unit (1997 dollars) shall be expended on active recreation facilities not including site preparation.

(e) *Width, setbacks and yards.*

1. Minimum requirements for width, setbacks and/or yards other than as for base districts, and as established in subsection (6), shall be specifically established during the review and approval of the concept development plan. The following guidelines shall be used in establishing any width, setback and/or yard building spacing variations from requirements of subsection (6). Variations shall not:
  - a. Impair safety from the standpoint of fire and rescue access to properties;
  - b. Increase danger or probability of accidents involving vehicles and/or pedestrians;
  - c. Be done with the major purpose to decrease development costs;
  - d. Be done when the effect is to decrease privacy, adequacy of light and air, or buffering beyond base district regulations' effects; and
  - e. Abrogate the principal that sides of structures located on and backing up to the outer perimeter of the project shall conform to the setback and yard requirements of the adjoining district or the setbacks established in the project, whichever is greater.

(f) *Streets.*

1. Streets serving single-family attached dwellings, multifamily dwellings, commercial and office uses may be dedicated to public use or may be retained under private ownership. Not more than three (3) single-family dwellings may be served by a single pipestem access easement or driveway directly connected to a public street.
2. Public streets shall be designed and constructed in accordance with the minimum standards of the Virginia Department of Transportation.
3. Privately owned and maintained streets may be approved, provided:
  - a. All parking is off-street and designated areas of off-street parking are provided that are in excess of and complementary to private driveways;
  - b. A plan is submitted and approved for school bus pick up and drop off areas for property owners abutting the private street;
  - c. A plan is submitted and approved for emergency access, snow clearance and postal delivery for all property owners abutting the private street;
  - d. The private streets are not through streets;
  - e. The private streets are developed to a pavement section equal to VDOT standard for the projected traffic volume and to a geometric standard meeting county requirements.
  - f. The minimum width of the streets is eighteen (18) feet or wider exclusive of any on-street parking based on the projected vehicle trips per day for the streets;
  - g. The right-of-way for all private streets shall be dedicated to the PUD homeowners association; and
  - h. Deeds for property abutting the private street must state that the street is private and will not be maintained by the state or county. If the property owners association officially petitions to dedicate the necessary right-of-way to the state or county it must be at no cost to the state or county and the association shall pay the full cost to bring the street up to state standards.

The vote on the foregoing ordinance was as follows:

<u>AYE</u>	<u>NAY</u>
Mary W. Biggs	None
James D. Politis	
John A. Muffo	
Gary D. Creed	
Doug Marrs	
Annette S. Perkins	
Steve L. Spradlin	

**ORD-FY-07-17**  
**AN ORDINANCE AMENDING CHAPTER 10, ENTITLED ZONING, SECTION 10-41(18) OF THE CODE OF THE COUNTY OF MONTGOMERY, VIRGINIA, BY AMENDING THE FARM ENTERPRISE SUPPLEMENTAL DISTRICT REGULATIONS BY REQUIRING A FARM ENTERPRISE TO HAVE AT LEAST FORTY FEET OF PUBLIC ROAD FRONTAGE OR BE REQUIRED TO OBTAIN A SPECIAL USE**

On a motion by Mary W. Biggs, seconded by James D. Politis and carried unanimously,

BE IT ORDAINED, By the Board of Supervisors of the County of Montgomery, Virginia that Chapter 10, Section 10-41(18) of the Code of the County of Montgomery, Virginia shall be amended and reordained as follows:

**Sec. 10-41 Supplemental District Regulations.**

(18) *Farm enterprises.* Farm enterprises, as defined in Article VI of this chapter, are permitted in the A-1 Agriculture District subject to the following requirements:

- (a) The gross floor area of any structure(s) devoted to the farm enterprise use shall not exceed two thousand (2,000) square feet.
- (b) In addition to family members residing on the farm or the farm operators, up to two (2) nonresident, nonfamily employees (equivalent to two (2) full-time workers at forty (40) hours per week) are permitted to be engaged in the enterprise on an annual basis.
- (c) Structures and parking areas shall be located at least one hundred (100) feet from any residential zoning district and adjacent dwellings, other than the owner's dwelling.
- (d) At least thirty (30) percent by retail value of the products sold from the farm enterprise on an annual basis shall have been grown or produced on the farm.
- (e) Hours of operation shall be limited to the hours between 7:00 a.m. and 10:00 p.m.
- (f) One sign shall be permitted and shall be non-illuminated and not exceed twenty (20) square feet in area.
- (g) The enterprise ~~must front~~ shall have at least forty (40) feet of frontage on at least one public road. In cases where the proposed farm enterprise does not meet the minimum road frontage, the board of zoning appeals may grant a special use permit for such a use provided all parties with interest in any private access easement used to serve the farm enterprise have received notification of the request.

The vote on the foregoing ordinance was as follows:

AYE

James D. Politis

John A. Muffo

Gary D. Creed

Doug Marrs

Annette S. Perkins

Mary W. Biggs

Steve L. Spradlin

NAY

None

**ORD-FY-07-18**

**AN ORDINANCE AMENDING CHAPTER 10, ENTITLED  
ZONING, SECTION 10-47 OF THE CODE OF THE COUNTY OF  
MONTGOMERY, VIRGINIA, BY AMENDING THE NONCONFORMING  
PROVISIONS SHOULD A RESIDENTIAL OR COMMERCIAL BUILDING  
BE DAMAGED OR DESTROYED BY A NATURAL DISASTER OR OTHER  
ACT OF GOD IN ORDER TO COMPLY WITH THE CHANGE IN STATE LAW**

On a motion by James D. Politis, seconded by Mary W. Biggs and carried unanimously,

BE IT ORDAINED, By the Board of Supervisors of the County of Montgomery, Virginia, that Chapter 10 Entitled Zoning Section 10-47 of the Code of the County of Montgomery, Virginia, shall be amended and reordained as follows:

**Sec. 10-47. Nonconformities.**

(1) *Purpose and scope.* The purpose of this subsection is to regulate and limit the development and continued existence of uses, structures, and lots established prior to the effective date of this chapter which do not conform to the requirements of this chapter. Many nonconformities may continue, but the provisions of this subsection are designed to curtail substantial investment in nonconformities and to bring about their eventual improvement to a conforming status or elimination in order to preserve the integrity of this chapter and the desired character of the county and to protect the public health and safety.

Any nonconforming use, structure, or lot which lawfully existed as of the effective date of this chapter and which remains nonconforming, and any use, structure, or lot which has become nonconforming as a result of the adoption of this chapter or any subsequent reclassification of zoning districts or other amendment to this chapter, may be continued or maintained only in accordance with the terms of this subsection. The limitations of this subsection shall not apply to structures or lots whose nonconforming features are the subject of a variance that has been granted by the board of zoning appeals or a modification or condition that was approved by the board of supervisors.

(2) *Definitions.*

*Nonconforming use* means the otherwise legal use of any land building or structure, other than a sign, that does not conform to all of the use regulations of this chapter for the district in which it is located, either on April 15, 1969, or as a result of subsequent amendments to this chapter.

*Nonconforming lot* means an otherwise legally platted lot that does not conform to the minimum area or width requirements of this chapter for the district in which it is located either on April 15, 1969, or as a result of subsequent amendments to this chapter.

*Nonconforming structure* means an otherwise legal building or structure that does not conform with the lot area, yard, height, lot coverage or other area regulations of this chapter, or is designed or intended for a use that does not conform to the use regulations of this chapter for the district in which it is located, either on April 15, 1969, or as a result of subsequent amendments to this chapter.

(3) *Changes in district boundaries.* Whenever a zoning district boundary shall be changed by amendment of this chapter initiated by the board of supervisors, any use, lot or structure affected by such change shall thereafter be required to meet the most current district regulations. Such affected use, lot or structure shall be accorded nonconforming use, lot and/or structure status as may be appropriate under the terms of this section.

(4) *Nonconforming uses.*

- (a) *Expansion of nonconforming use.* A nonconforming use shall not be expanded or extended beyond the floor area or lot area that it occupied on the effective date of this chapter. The replacement of accessory dwellings shall not be considered an expansion or enlargement of a nonconforming use provided the replacement is conducted in accordance with subsection d. of section 10-47(5) of this chapter.
- (b) *Discontinuation of nonconforming use.* If a nonconforming use is discontinued or abandoned for a continuous period of more than two (2) years, including any period of discontinuation before the effective date of this chapter, then that use shall not be renewed or re-established and any subsequent use of the lot or structure shall conform to the regulations of this chapter.

(c) *Change of nonconforming use.*

- 1. If no structural alterations are made, a nonconforming use may, by special use permit, be changed to another nonconforming use provided that the board of supervisors, upon planning commission recommendation, either by general rule or by making findings in the specific case, finds that the proposed use is equally appropriate or more appropriate to the zoning district than the existing nonconforming use. The board of supervisors may impose appropriate conditions in accord with the provisions of this chapter.
- 2. When any nonconforming use is superseded by a permitted use, the use of the property shall thereafter conform to the regulations for the district, and no nonconforming use shall thereafter be resumed.

(5) *Nonconforming structures.*

- (a) *Repair or reconstruction of nonconforming structure.* Repairs, restoration and maintenance, including structural repairs, may be made to a nonconforming structure to an extent not exceeding fifty (50) percent of the current replacement value of the structure, provided that the cubic volume of the structure as it existed at the time of passage or amendment of this chapter shall not be increased. If a nonconforming structure is damaged or destroyed, the owner may repair or replace such structure to the extent that the cost of restoration to its condition before the occurrence shall not exceed fifty (50) percent of the current cost of reconstructing the entire structure. It shall be restored only if it complies with the requirements of this chapter. Cost of land or any other factors other than the cost of the structure are excluded from determinations of cost of restoration and of reconstructing entire structure. Any restoration must be started and completed within twenty-four (24) months of the date of a specific damaging event or else shall be considered as to have been damaged by greater than fifty (50) percent of its value.
- (b) *Alteration or enlargement of nonconforming structure.* A nonconforming structure shall not be enlarged, increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this chapter, unless such improvements do not increase the degree of nonconformity.
- (c) *Moving of nonconforming structure.* A nonconforming structure shall not be moved in whole or in part to any other location unless every portion of such structure and the use thereof is made to conform with all requirements of this chapter and other applicable county ordinances.



- (d) *Pre-existing structures in subsequently created setback areas.* Any structure which existed on the date of adoption of this chapter which is nonconforming solely due to a setback or yard requirement imposed by this may be enlarged, increased, extended, repaired or replaced so long as any such improvements do not result in an increase in the degree of nonconformity.
- (e) Notwithstanding the above provisions, if a residential or commercial building is damaged or destroyed by a natural disaster or other act of God, such building may be repaired, rebuilt or replaced to eliminate or reduce the nonconforming features to the extent possible, without the need to obtain a variance. If such building cannot be repaired, rebuilt or replaced except to restore it to its original nonconforming condition, the owner shall have the right to do so. The owner shall apply for a building permit and any work done to repair, rebuild or replace such building shall be in compliance with the provisions of the Uniform Statewide Building Code and any work done to repair, rebuild or replace such building shall be in compliance with the provisions of the flood plain regulations. Unless such building is repaired or rebuilt within two (2) years of the date of the natural disaster or replaced within two (2) years of the date of the natural disaster or act of God, such building shall only be repaired, rebuilt or replaced in accordance with the provisions of the current zoning ordinance. However, if the nonconforming building is in an area under a federal disaster declaration and the building has been damaged or destroyed as a direct result of conditions that gave rise to the declaration, then the owner shall have four (4) years from the date of the natural disaster for the building to be repaired, rebuilt or replaced as otherwise provided.
- (6) *Nonconforming lots.*
- (a) *Use of nonconforming lots.* If a lot was recorded prior to the effective date of this zoning ordinance, or is hereafter created, and such lot met the requirements of the zoning ordinance in effect at the time of recordation, or complies with this chapter, then such lot may be used for any use permitted in the zoning district in which it is located provided all the other regulations of this chapter can be satisfied.
- (b) *Establishment of nonconforming lot prohibited.* A lot may only be established after the effective date of this chapter if such lot conforms with all requirements of this chapter, except as follows:
1. An existing lot mapped in two (2) zoning districts may be subdivided into two (2) lots using the zoning district boundary as division line. Said lots shall meet all ordinance requirements except minimum lot and district area.
  2. A lot may be created for use by PSA, VDOT, utility of municipal incorporated place, public utilities as defined in section 56-232 of the Virginia Code, or public service corporations as defined in section 56-1 of the Virginia Code. Said lot may be accessed by an easement, shall be at least ten thousand (10,000) square feet in area, and shall meet all other requirements of this chapter.
  3. An "outlot" may be designated on a subdivision plat as open space. No habitable structures shall be built upon an "outlot."
- (c) *Boundary line adjustments.* Notwithstanding the provisions of subsection (b) above, boundary line adjustments may be permitted between nonconforming lots, or between a conforming and a nonconforming lot, provided the zoning administrator finds that the degree of nonconformity for any lot resulting from such boundary line adjustment is not increased due to such adjustment.
- (d) *Highway realignment or condemnation.* Any lot, which by reason of realignment of federal or state highway or by reason of condemnation proceedings, has been reduced in size to an area less than that required by law, shall be considered a nonconforming lot of record subject to the provisions set forth in subsection (1); and any lawful use or structure existing at the time of such highway realignment or

condemnation proceedings which would thereafter no longer be permitted under the terms of this chapter shall be considered a nonconforming use or structure as that term is used in this chapter.

The vote on the foregoing ordinance was as follows:

<u>AYE</u>	<u>NAY</u>
John A. Muffo	None
Gary D. Creed	
Doug Marrs	
Annette S. Perkins	
Mary W. Biggs	
James D. Politis	
Steve L. Spradlin	

**R-FY-07-90**  
**RESOLUTION AUTHORIZING**  
**A CONTINUING DISCLOSURE AGREEMENT, DISCLOSURE INFORMATION**  
**AND CERTAIN ACTIONS IN CONNECTION WITH A FINANCING BY THE**  
**WESTERN VIRGINIA REGIONAL JAIL AUTHORITY**

On a motion by Doug Marrs, seconded by Mary W. Biggs and carried unanimously,

The County of Franklin, Virginia, the County of Montgomery, Virginia, the County of Roanoke, Virginia and the City of Salem, Virginia are members of the Western Virginia Regional Jail Authority (the “Authority”). The Authority was created for the purpose of developing and operating a regional jail facility (the “Regional Jail”) for the benefit of such member jurisdictions. The Authority plans to finance the development of the Regional Jail through the issuance of its regional jail facility revenue bonds and notes in an aggregate principal amount not to exceed \$127,000,000 (the “2007 Obligations”).

To assist with the sale of the 2007 Obligations to one or more underwriters or other financial institutions, the Authority has asked the County of Montgomery, Virginia (the “Member Jurisdiction”) to enter into a Continuing Disclosure Agreement to be dated on or before the date of the issuance of the 2007 Obligations (the “Disclosure Agreement”). Further, as a member of the Authority, the Member Jurisdiction will be asked to provide certain information, including its audited financial statements, to the Authority for inclusion in an Appendix (the “Appendix”) to the offering document to be circulated to investors in connection with the offering and issuance of the 2007 Obligations (the “Preliminary Official Statement”).

The forms of the Disclosure Agreement and the Appendix have been made available to the members of the Member Jurisdiction’s Board of Supervisors (the “Governing Body”) prior to this meeting and have been filed with the Governing Body’s records.

After careful consideration and in furtherance of the public purposes for which the Authority was created and the Regional Jail is being developed,

**NOW, THEREFORE, BE IT RESOLVED, THAT:**

1. **Authorization of Disclosure Agreement.** The Disclosure Agreement is hereby approved in substantially the form made available to the members of the Governing Body prior to this meeting, with such changes, insertions, omissions or amendments (including, without limitation, changes of the dates thereof and therein) as may be approved by the Chairman of the Governing Body or the County Administrator. The approval of any such changes, insertions, omissions and amendments shall be evidenced conclusively by the execution and delivery of the Disclosure Agreement. The performance of the Member Jurisdiction’s obligations under the Disclosure Agreement is authorized and directed.

2. **Execution and Delivery of Disclosure Agreement.** The Chairman of the Governing Body or the County Administrator, either of whom may act, are each authorized and directed to execute the Disclosure Agreement on behalf of the Member Jurisdiction and to deliver it to the Authority.

3. **Authorization of Information for Preliminary Official Statement and Official Statement.** The Chairman of the Governing Body or the County Administrator are each authorized and directed to work with the Authority to provide information with respect to the Member Jurisdiction, including its audited financial statements, that will be appropriate for inclusion in the Preliminary Official Statement, in substantially the form provided in the Appendix.

The Chairman of the Governing Body or the County Administrator are each authorized and directed to provide such information with respect to the Member Jurisdiction, including its audited financial statements, for inclusion in the final Official Statement with respect to the 2007 Obligations, which information will be substantially similar to the information in the Preliminary Official Statement, with revisions necessary since the date of the Preliminary Official Statement as may be necessary or appropriate to incorporate therein.

The underwriters for the 2007 Obligations are authorized to include the information provided by the Member Jurisdiction in accordance with this Resolution, including the Member Jurisdiction's Appendix and audited financial statements, in the Preliminary Official Statement and Official Statement distributed in connection with the offering and issuance of the 2007 Obligations.

4. **Authorization of Further Acts and Documentation.** The members of the Governing Body and the staff of the Member Jurisdiction are authorized and directed to execute and deliver on behalf of the Member Jurisdiction such other instruments, documents or certificates, and to do and perform such other things and acts, as any of them shall deem necessary or appropriate to carry out the transactions authorized by this Resolution or contemplated by the Disclosure Agreement or such instruments, documents or certificates. All such actions previously taken are hereby ratified, approved and confirmed.

5. **Effective Date.** This Resolution shall take effect immediately upon its adoption.

The vote on the foregoing resolution was as follows:

<b><u>AYE</u></b>	<b><u>NAY</u></b>
Gary D. Creed	None
Doug Marrs	
Annette S. Perkins	
Mary W. Biggs	
James D. Politis	
John A. Muffo	
Steve L. Spradlin	

**R-FY-07-91  
CAPITAL PROJECTS  
\$130,000,000**

On a motion by Mary W. Biggs, seconded by James D. Politis and carried,

WHEREAS, The Montgomery County Board of Supervisors and the Montgomery County School Board met on August 29, 2006 and received a report from the County's financial advisor, Davenport & Company LLC on the County's financial capacity for future capital projects over the next five year period; and

WHEREAS, The County and School capital projects reviewed for this five year period totaled \$201,909,955 and was estimated to require a 27 cent increase in the real estate tax rate to cover the debt service cost; and

WHEREAS, Davenport & Company's August 29, 2006 report indicated the County did not have the financial capacity to borrow over \$200 million in a five year period and remain in compliance with the County's financial guidelines; and

WHEREAS, Davenport & Company's August 29, 2006 report indicated that the County had financial capacity to borrow \$130 million in a five year period and remain in compliance with the County's financial guidelines which was estimated to require a 14 cent increase in the real estate tax rate to cover the debt service cost; and

WHEREAS, The Montgomery County Board of Supervisors at their November 15, 2006 and November 27, 2006 meeting discussed the estimated costs of the county and school capital projects, and the level of financial resources that could be made available for school construction, given the commitments of the Western Virginia Regional Jail and on-going operational increases; and

WHEREAS, The Montgomery County Board of Supervisors received information on two scenarios, one excluding the Western Virginia Regional Jail from consideration in the \$130 million list of capital projects and one including the jail project, and the projected increases necessary in the real estate tax rate; and

WHEREAS, \$130 million for capital projects (excluding the Western Virginia Regional Jail) over a five year period would include the following:

County Capital Projects of \$31.1 million:

• Courthouse completion	\$17,000,000
• Land purchase for schools and county projects	\$ 3,000,000
• Completion of Building C-for schools	\$ 600,000
• Upgrade County Jail	\$ 2,500,000
• Sheriff's Office Building	\$ 8,000,000

School Capital Projects of \$98.9 million to be distributed by the School Board would include some or all of the following capital projects:

- Elliston/Lafayette Elementary School
- Prices Fork Elementary School
- Auburn School Project
- Christiansburg Elementary School
- School Air Conditioning Project
- School Administration furniture and fixtures

NOW THEREFORE BE IT RESOLVED That the Board of Supervisors of Montgomery County, Virginia, will consider an estimated \$98.9 million over a five year period for school construction, subject to consultation with the School Board and final approval and appropriation by the Board of Supervisors, of the projects and estimated costs to be submitted by the Montgomery County School Board.

FURTHER, BE IT RESOLVED, That the Board of Supervisors of Montgomery County, Virginia, agrees, if necessary, to generate the necessary resources to pay the annual debt service increases for county and school capital projects through an increase in the real estate tax rate of not more than 14 cents over a five year period.

The vote on the foregoing resolution was as follows:

<u>AYE</u>	<u>NAY</u>
John A. Muffo	Steve L. Spradlin
James D. Politis	
Annette S. Perkins	
Mary W. Biggs	
Doug Marrs	
Gary C. Creed	

Supervisor Spradlin stated for the record that he believes the Board should receive citizen input before issuing bonds for \$130 million. He believes the county and school capital projects are worthy projects and supports the program. He believes the County should have a bond referendum in order to allow citizen input, therefore he will not be able to support the resolution approving the issuance of bonds for \$130 million.

Supervisor Politis left the meeting at 9:50 p.m.

#### **FY 2006-2007 Revenue Sharing Funds**

The County Administrator reported he received additional information from VDOT regarding the proposed resolution adopting the FY 2006-2007 Revenue Sharing Projects. VDOT provided costs estimates for the following three roads:

1. Poverty Creek Road ( SR 725 ) – 2/10 mile, \$90,000
2. Quartz Lane ( SR 768) – 4/10 mile- \$70,000
3. Tucker/McCoy Intersection – Short term solution

The County Administrator stated the Board could amend the resolution on the table to add these projects to the proposed resolution. The Board discussed the additional information provided and agreed to add Quartz Lane to the FY 2006-2007 Revenue Sharing.

#### **R-FY-07-92 FY 2006-2007 REVENUE SHARING FUNDS**

On a motion to amend by Annette S. Perkins, seconded by Doug Marrs and carried unanimously,

WHEREAS, The Board of Supervisors of the County of Montgomery desires to submit an application for an allocation of funds of up to \$250,000 through the Virginia Department of Transportation Fiscal Year 2006-2007 Revenue Sharing Program; and

WHEREAS, \$250,000 of these funds are requested to fund the following:

- |   |           |
|---|-----------|
| 1. Blue Springs Rd (SR 613) Stabilize and Pave Existing Roadway   | \$ 41,622 |
| (to .25 mi south SR 613)  |           |
| 2. Crab Creek Rd (SR 660) Stabilize and Pave Existing 18' Roadway | \$164,324 |
| (From SR 661 to 1.0 mi west of SR 661)                            |           |
| 3. Woodrow Road (SR 644) Improve Drainage                         | \$218,378 |
| 4. Quartz Lane (SR 768) Minor Widening and Paving                 | \$ 75,676 |

NOW, THEREFORE, BE IT RESOLVED, That the Board of Supervisors of the County of Montgomery, hereby supports this application for an allocation of \$250,000 through the Virginia Department of Transportation Revenue Sharing Program.

The vote on the foregoing resolution was as follows:

<u>AYE</u> Annette S. Perkins Mary W. Biggs Doug Marrs Gary D. Creed John A. Muffo Steve L. Spradlin	<u>NAY</u> None	<u>ABSENT</u> James D. Politis
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**R-FY-07-93**  
**RESOLUTION AUTHORIZING MONTGOMERY COUNTY**  
**AND THE INDUSTRIAL DEVELOPMENT AUTHORITY OF**  
**MONTGOMERY COUNTY, VIRGINIA TO ENTER INTO**  
**INCENTIVE “PERFORMANCE AGREEMENTS” WITH**  
**FEDERAL-MOGUL**

On a motion by Gary D. Creed, seconded by John A. Muffo and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia (**the “Board of Supervisors”**) that the Board of Supervisors hereby agrees that the County and Industrial Development Authority of Montgomery County, Virginia, (**the “Authority”**) are authorized to enter into “Performance Agreements” with Federal-Mogul outlining GOF and Local Incentive assistance available to the Company based on satisfactorily achieving certain expansion goals during the period July 1, 2006 to December 31, 2008 as called for in the Agreements.

BE IT FURTHER RESOLVED, By the Board of Supervisors that the County Administrator is authorized and directed to execute a Performance Agreement with Federal-Mogul setting forth the criteria by which the Company may qualify for Governor’s Opportunity Funding assistance, to be provided by the State, contingent upon the review and approval of the final document by the County Attorney.

BE IT FURTHER RESOLVED, By the Board of Supervisors that the Authority is hereby authorized to enter into a Performance Agreement with Federal-Mogul setting forth the criteria by which the company may qualify for incentive assistance from the locality, contingent upon the review and approval of the final document by the County Attorney.

This resolution shall take effect immediately.

ADOPTED THIS 18<sup>th</sup> DAY OF DECEMBER, 2006.

The vote on the foregoing resolution was as follows:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
Annette S. Perkins	None	James D. Politis
Mary W. Biggs		
Doug Marrs		
Gary D. Creed		
John A. Muffo		
Steve L. Spradlin		

**R-FY-07-94**  
**APPOINTMENT**  
**ADJUSTMENT AND APPEALS BOARD**

On a motion by Mary W. Biggs, seconded by Gary D. Creed and carried unanimously,

BE IT RESOLVED, The Board of Supervisors of Montgomery County, Virginia hereby reappoints **Christopher C. Peters** to **the Adjustment and Appeals Board** effective December 19, 2006 and expiring December 18, 2010.

The vote on the foregoing resolution was as follows:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
Mary W. Biggs	None	James D. Politis
Doug Marrs		
Gary D. Creed		
John A. Muffo		
Annette S. Perkins		
Steve L. Spradlin		

**R-FY-07-95**  
**APPOINTMENT**  
**PARKS AND RECREATION COMMISSION**

On a motion by Mary W. Biggs, seconded by John A. Muffo and carried unanimously,

BE IT RESOLVED, The Board of Supervisors of Montgomery County, Virginia hereby appoints **Paul L. Smeal, who resides in District A**, to the **Parks and Recreation Commission**, effective December 19, 2006 and expiring December 18, 2009.

The vote on the foregoing resolution was as follows:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
Doug Marrs	None	James D. Politis
Gary D. Creed		
John A. Muffo		
Annette S. Perkins		
Mary W. Biggs		
Steve L. Spradlin		

**R-FY-07-96**  
**APPOINTMENT**  
**TRANSPORTATION SAFETY COMMISSION**

On a motion by Mary W. Biggs, seconded by Gary D. Creed and carried unanimously,

BE IT RESOLVED, The Board of Supervisors of Montgomery County, Virginia hereby reappoints **Georgia Anne Snyder-Falkinham** as a **citizen representative** to the **Transportation Safety Commission** effective January 1, 2007 and expiring December 31, 2009.

The vote on the foregoing resolution was as follows:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
Gary D. Creed	None	James D. Politis
John A. Muffo		
Annette S. Perkins		
Mary W. Biggs		
Doug Marrs		
Steve L. Spradlin		

**R-FY-07-97**  
**RESOLUTION OF RECOGNITION**  
**NANNIE B. HARISTON**

On a motion by Mary W. Biggs, seconded by Doug Marrs and carried unanimously,

**WHEREAS**, For over fifty years, beginning in 1953 when she arrived from the coalfields of West Virginia with her children and husband John T. Hairston, **Nannie B. Hairston** labored tirelessly for the good of the citizens of Montgomery County; and

**WHEREAS**, The recipient of many awards and honors, including NAACP “*Distinguished Woman of the Year*” in 1997, **Nannie B. Hairston** was active in numerous organizations and committees, was a charter member of the Montgomery County League of Women Voters, and long-time member of the Schaeffer Memorial Baptist Church; and

**WHEREAS**, Concerned with the preservation of local history and the education of young people, **Nannie B. Hairston** worked diligently on behalf of the Christiansburg Community Center, formerly the Hill School; and

**WHEREAS**, Undeterred by either obstacle or adulation, **Nannie B. Hairston** kept her face resolutely turned toward the light of understanding, commending success in a characteristic phrase, “*Praise the Lord!*”; and

**WHEREAS,** The *Nannie B. Hairston* Sculpture Committee donated the *Nannie B. Hairston* portrait sculpture to Montgomery County in recognition of her tireless efforts over the past fifty years; and

**WHEREAS,** In celebration of her work and life, the *Nannie B. Hairston* portrait sculpture was dedicated on October 28, 2006 where it stands in the lobby at the Montgomery County Government Center.

**NOW, THEREFORE, BE IT RESOLVED,** The Board of Supervisors of Montgomery County, Virginia, takes this opportunity on behalf of the citizens of Montgomery County, to express official personal gratitude and deep appreciation to *Nannie B. Hairston* for her outstanding public service and dedication.

**BE IT FURTHER RESOLVED,** That the original of this resolution be presented to *Nannie B. Hairston* as a testimonial of the high esteem and appreciation in which she is regarded by the members of the Board of Supervisors and that a copy be made a part of the official Minutes of Montgomery County.

The vote on the foregoing resolution was as follows:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
John A. Muffo	None	James D. Politis
Annette S. Perkins		
Mary W. Biggs		
Doug Marrs		
Gary D. Creed		
Steve L. Spradlin		

**R-FY-07-98**  
**RESOLUTION OF COMMEMORATION**  
**JOE C. STEWART**

On a motion by Gary D. Creed, seconded by Mary W. Biggs and carried unanimously,

**WHEREAS, Joe C. Stewart,** who was born on January 29, 1915 and was a life long resident of Montgomery County, passed away on November 13, 2006; and

**WHEREAS, Joe C. Stewart** served as a member of the Board of Supervisors of Montgomery County from January 1, 1981 to December 31, 2001, and served as Vice Chairman in 1991 and 1993; and

**WHEREAS, Joe C. Stewart** served on the Montgomery County Public Service Authority from June 1983 through December 2001, and served as Second Vice Chairman in 1988, and served as Vice Chairman from 1989 through 2001; and

**WHEREAS, Joe C. Stewart** served as a member of the Fairview District Home Board from January 1985 through December 2001; and

**WHEREAS, Joe C. Stewart** served as a liaison to the Alleghany Area Library Building Committee from 1998 through 2001; and

**WHEREAS, Joe C. Stewart** contributed in the efforts to provide leadership for education and public safety of all Montgomery County residents through his support in the development of libraries, schools and fire/rescue stations, and leaves a lasting legacy of service to his community; and

**WHEREAS,** His character and contributions to the community, and to all the people he touched, will be forever fondly remembered.



***NOW, THEREFORE, BE IT RESOLVED***, The Board of Supervisors of Montgomery County, Virginia hereby offers its deepest condolences and most heartfelt sympathy to the family and friends of ***Joe C. Stewart***.

***BE IT FURTHER RESOLVED***, That the original of this resolution be presented to the family of ***Joe C. Stewart*** as an expression of the high regard in which his memory is held by the members of the Board of Supervisors, and that a copy be made a part of the official Minutes of Montgomery County.

The vote on the foregoing resolution was as follows:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
Annette S. Perkins	None	James D. Politis
Mary W. Biggs		
Doug Marrs		
Gary D. Creed		
John A. Muffo		
Steve L. Spradlin		

## **COUNTY ADMINISTRATOR'S REPORT**

### **Roanoke Region Intermodal Facility Site Public Hearing**

On December 13, 2006, the County Administrator attended the Department of Rail and Public Transportation's (DRPT) public hearing on the Roanoke Region Intermodal Facility Site. The County Administrator spoke on behalf of the Board of Supervisors opposing the proposed facility in Montgomery County and submitted a copy of the Board's October 23, 2006 resolution opposing the facility. There were approximately 22 speakers. The deadline for comments to the DRPT is January 16, 2007.

## **BOARD MEMBERS' REPORTS**

**Supervisor Biggs** - **Roger Woody Rezoning** Supervisor Biggs requested staff to send a copy of the ordinance approving Roger Woody's rezoning to the citizens who spoke during Public Address tonight that had concerns with the proposed development.

**Library Board Meeting**: The Library Board discussed the upcoming budget process and the needs for the Library system. One major issue discussed was the replacement of the Bookmobile, which will need to be replaced within 2-5 years. One option is to set aside funding on an annual basis toward the replacement cost. The Floyd Library recently decided not to replace their old bookmobile. The Library Board would like to have the Board of Supervisors opinion as to whether to continue with the bookmobile service. Supervisor Marrs wanted to know what the Library Board's thoughts were on the bookmobile service and if it is beneficial to the citizens of Montgomery County. Supervisor Muffo stated the question is "what do the citizens want?" Another option is a regional bookmobile with Floyd and Montgomery Counties.

Supervisor Biggs also stated that the Library Board has commented favorably on the Library Director's approach to the budget. They did express concern about the lack of state funding towards the purchase of books.

**Supervisor Perkins** reported the Economic Development Commission met and elected officers for 2007. Mike Miller was elected Chair and Ann Carter elected Vice-Chair.

**Peppers Ferry Regional Wastewater Treatment Authority** – The PFRWTA announced that there is an estimated \$2 million in repairs that need to be done due to high levels of hydrogen sulfide destroying the pipes. The Town of Pulaski will bear the majority of the cost (\$1.2 million) and Montgomery County's share of the cost of repairs is approximately \$49,000.

**Supervisor Creed** commented on the proposed NS Intermodal Facility. He stated the majority of the citizens oppose the proposed facility. Supervisor Creed stated there is approximately 59 acres (Horne property) located behind the new Western Virginia Regional Jail that may be a suitable site for the intermodal facility. Mr. Horne is willing to sell.

**Supervisor Muffo** reported the dedication for the Peace Sculpture was held December 9, 2006 at the Government Center.

**Supervisor Spradlin** commended the County Administrator and Emergency Services Coordinator for securing a \$430,000 grant for the construction of a “Burn Building” in Montgomery County.

## **ADJOURNMENT**

On a motion by Mary W. Biggs, seconded by John A. Muffo and carried unanimously, the Board adjourned to Monday, January 8, 2007 at 6:00 p.m.

The vote on the foregoing motion was as follows:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
Gary D. Creed	None	James D. Politis
Doug Marrs		
Mary W. Biggs		
Annette S. Perkins		
John A. Muffo		
Steve L. Spradlin		

The meeting adjourned at 10:05 p.m.

APPROVED:_____	ATTEST:_____
Steve L. Spradlin	B. Clayton Goodman, III
Chair	County Administrator